

No. 12460

---

United States  
Court of Appeals  
for the Ninth Circuit.

---

ROBERT NELSON LANTIS,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

---

Transcript of Record

---

Appeal from the United States District Court,  
District of Hawaii.

FILED

APR - 5 1950

PAUL P. O'BRIEN,  
CLERK



No. 12460

---

United States  
Court of Appeals  
for the Ninth Circuit.

---

ROBERT NELSON LANTIS,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

---

Transcript of Record

---

Appeal from the United States District Court,  
District of Hawaii.





## INDEX

---

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

PAGE

### Appeal:

Designation of Record to Be Printed....	129
Notice of.....	18, 20
Statement of Points to Be Relied Upon by Appellant on.....	128
Application for Bail.....	23
Application in Re the Printing of Original Ex- hibits .....	131
Bond .....	24
Certificate of Clerk.....	31
Cost Bond.....	27
Defendant-Appellant's Second Amended Desig- nation of Record.....	30
Designation of Record to Be Printed on Ap- peal .....	129
Election .....	23
From the Minutes of Thursday, October 4, 1949	6
From the Minutes of Wednesday, December 7, 1949 .....	18

INDEX	PAGE
Indictment .....	2
Judgment and Commitment.....	8
Motion for a New Trial.....	10
Exhibit A—Affidavit of Mario P. Cortese..	11
B—Affidavit of Robert Nelson	
Lantis .....	14
C—Affidavit of Daniel G. Ridley..	16
Names and Addresses of Attorneys of Record.	1
Notice of Appeal.....	18, 20
Proceedings .....	33, 112
Statement of Points to Be Relied Upon by Ap- pellant on Appeal.....	128
Witnesses, Plaintiff's:	
Abreu, Oliver	
—direct .....	36
—cross .....	51
—redirect .....	73
—recross .....	75
Cambra, Anthony W.	
—direct .....	100
—cross .....	106
Lantis, Robert Nelson	
—direct .....	76
—cross .....	92

## NAMES AND ADDRESSES OF ATTORNEYS OF RECORD

For the Plaintiff, United States of America;

RAY J. O'BRIEN, Esq.,  
United States District Attorney,  
Federal Building, Honolulu, T. H.

HOWARD K. HODDICK, Esq.,  
Assistant United States District Attorney,  
Federal Building, Honolulu, T. H.

For the Defendant, Robert Nelson Lantis:

DANIEL G. RIDLEY, Esq.,  
307 Arcade Building,  
Honolulu, T. H.

J. EDWARD COLLINS, Esq.,  
Bishop Trust Building,  
Honolulu, T. H.

In the United States District Court for the  
District of Hawaii

October Term 1948

Cr. No. 10,210

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT NELSON LANTIS,

Defendant.

### INDICTMENT

(Count I, Section 88, Title 18, U.S.C.)

(Count II, Section 80, Title 18, U.S.C.)

#### Count I.

#### The Grand Jury Charges:

That commencing on or about the 12th day of November, 1946, and continuing thereafter until the 30th day of November, 1946, and at all times during the said period, in the City and County of Honolulu, Territory of Hawaii, and within the jurisdiction of this Court, Robert Nelson Lantis and Oliver Abreu, hereinafter jointly referred to as the conspirators, did knowingly, wilfully, unlawfully and feloniously conspire, combine, confederate and agree together and with each other, to violate Section 80, Title 18, United States Code, by making and causing to be made, presenting and causing to be presented, to and in a matter within the juris-

diction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent application, statement, certificate and representation that one 1941 Willy's Jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale, whereas, in truth and in fact, it was the intent and design of the said conspirators to purchase the said property from the said Territorial Surplus Property Office for the sole use and benefit of the said Robert Nelson Lantis, who was not then and there a veteran of World War II and therefore, was not entitled to the benefit of the VP-2 Veteran's priority privilege under which the application for and purchase of the said property would be made as aforesaid, as the conspirators then and there well knew.

Thereafter, and in pursuance of said conspiracy and to effect the objects thereof, the conspirators did do and commit, among others, the following overt acts;

(1) On or about the 12th day of November, 1946, in the City and County of Honolulu, Territory of Hawaii, the said Robert Nelson Lantis and Oliver Abreu did meet and confer.

(2) On or about the 12th day of November, 1946, in the City and County of Honolulu, Territory of Hawaii, the said Robert Nelson Lantis and Oliver Abreu did make and present to the said Territorial



Surplus Property Office an application for the purchase of one 1941 Willy's Jeep, Engine No. MA-79180, and other property.

(3) On or about the 18th day of November, 1946, in the City and County of Honolulu, Territory of Hawaii, the said Robert Nelson Lantis and Oliver Abreu, did pay to the Territorial Surplus Property Office, aforesaid, the sum of \$325.00.

### Count II.

#### The Grand Jury Further Charges:

That on or about the 12th day of November, 1946, in the City and County of Honolulu, Territory of Hawaii, and within the jurisdiction of this Court, Robert Nelson Lantis knowingly and wilfully made, and caused to be made and aided and abetted in making a false and fraudulent statement and representation and knowingly and wilfully presented and caused to be presented and aided and abetted in presenting to and in a matter within the jurisdiction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent statement and representation, to wit: that one 1941 Willy's Jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale, whereas, in truth and in fact, it was the intent and design of the said Oliver Abreu, and defendant

to purchase the said property from the said Territorial Surplus Property Office for the sole use and benefit of the said Robert Nelson Lantis, who was not then and there a veteran of World War II and therefore, was not entitled to the benefit of the VP-2 Veteran's priority privilege under which the application for and purchase of the said property would be made as aforesaid, as the defendant and said Oliver Abreu, then and there well knew.

Dated: Honolulu, T. H., this 23rd day of March, 1949.

A True Bill.

/s/ CECIL G. BENNY,

Foreman, Grand Jury.

/s/ RAY J. O'BRIEN,

United States Attorney.

I hereby order a Bench Warrant to issue forthwith on the within Indictment for the arrest of the defendant named therein, bail being fixed at \$2,000.

/s/ D. E. METZGER,

Judge, United States District Court for the District of Hawaii.

Presented in open Court by the Grand Jury on Mar. 23, 1949.

/s/ [Indistinguishable]

Deputy Clerk.

[Endorsed]: Filed Mar. 23, 1949.

[Title of Court and Cause.]

FROM THE MINUTES OF  
THURSDAY, OCTOBER 4, 1949

On this day came Mr. Howard K. Hoddick, Assistant United States District Attorney, and also came the defendant herein with Mr. Daniel G. Ridley, his counsel. This case was called for trial, jury waived.

Opening statements were made by Mr. Hoddick and Mr. Ridley.

Mr. Oliver Abreu, automobile mechanic, was called and sworn and testified on behalf of the United States.

Copy of Veteran's Application for Surplus Property and Certificate were marked for identification as United States "A" and were admitted in evidence as United States Exhibit No. 1, marked and ordered filed.

Copy of Veteran's Purchase Order was admitted in evidence as United States Exhibit No. 2, marked and ordered filed.

Copy of Surplus Property Office Notice of Sale, etc., were admitted in evidence as United States Exhibit No. 3, marked and ordered filed.

Application for Registration of Passenger Carrying Motor Vehicle was marked for identification as United States "B-1."

Motor Vehicle Certificate of Legal Ownership was marked for identification as United States "B-2."

Motor Vehicle Certificate of Legal Ownership was marked for identification as United States "B-3."



Surplus Property Office Notice of Sale was marked for identification as United States "C."

United States "B-1," "B-2," and "B-3" for identification were admitted in evidence as United States Exhibits Nos. 4-A, 4-B, and 4-C, marked and ordered filed.

United States "C" for identification was admitted in evidence as United States Exhibit No. 5, marked and ordered filed.

At 10:49 a.m., the government rested its case.

Mr. Robert Nelson Lantis, defendant herein, was called and sworn and testified on his own behalf.

At 11:20 a.m., the defendant rested.

The Court ordered that this case be continued to 2 p.m., this day for further trial.

At 2:10 p.m., upon request of Mr. Hoddick, the Court ordered that this case be further continued to 2:30 p.m. for further trial.

At 2:36 p.m., Mr. Anthony W. Cambra, employee, Mutual Telephone Company, was called and sworn and testified on behalf of the United States.

At 2:50 p.m., both sides rested.

Opening argument was waived by the government, and argument was had by Mr. Ridley.

At 3 p.m., closing argument was had by Mr. Hoddick.

At 3:08 p.m., this case was submitted.

At 3:20 p.m., upon the evidence adduced, the Court found the defendant guilty as to Counts I and II of the Indictment herein.

Exceptions to the Court's findings were noted by the defendant.

The Court then ordered that this case be continued to October 14, 1949 at 10 a.m. for pre-sentence investigation and for sentence.

---

District Court of the United States  
for the District of Hawaii

Cr. No. 10,210

UNITED STATES OF AMERICA

vs.

ROBERT NELSON LANTIS

(Count I, Sec. 88, Title 18, U.S.C.)

(Count II, Sec. 80, Title 18, U.S.C.)

JUDGMENT AND COMMITMENT

On this 21st day of October, 1949 came the attorney for the government and the defendant appeared in person and with his counsel, Daniel G. Ridley, Esquire, and Herbert H. K. Lee, Esquire.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty as to both Counts and a finding of guilty of the offenses of knowingly, wilfully, unlawfully and feloniously making and causing to be made false, fraudulent and misleading statements and certificates upon application to purchase war surplus materials from the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America,

and of conspiring to have such false statements made, as charged in Counts I and II and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year and One (1) Day as to Count I and fined the sum of One Thousand and no/100 Dollars (\$1,000.00) as to Count II.

It is further ordered:

That Mittimus be stayed to November 25, 1949 at 11:00 a.m.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ D. E. METZGER,

United States District Judge.

/s/ WM. F. THOMPSON, JR.,

Clerk.

[Title of District Court and Cause.]

### MOTION FOR A NEW TRIAL

The Defendant moves the court to grant him a new trial for the following reasons:

1. That since October 4, 1949 (the date on which the Defendant was tried and found guilty by the court), Defendant has ascertained that one Mario P. Cortese will testify to the facts set forth in the affidavit of the said Mario P. Cortese hereto attached and marked Exhibit "A."

2. That since October 4, 1949, the Defendant has discovered that there are certain books, papers and other documents in existence which would establish that that certain Willys jeep mentioned in the indictment was purchased by Oliver Abreu (the veteran named in said indictment) for his own personal use and not for re-sale.

3. That the court erred in finding and adjudicating the Defendant guilty on each count in the indictment upon the unsupported testimony of Oliver Abreu, an alleged co-conspirator.

4. That the finding and judgment of the court as to the Defendant's guilt in reference to both counts set forth in the indictment is contrary to the weight of the evidence.

5. That the finding and judgment of the court



as to Defendant's guilt in reference to both counts set forth in the indictment is not supported by substantial evidence.

Dated: Honolulu, T. H., this 31st day of October, 1949.

/s/ HERBERT K. H. LEE,  
Attorney for Defendant.

/s/ DANIEL G. RIDLEY,  
Attorney for Defendant.

---

EXHIBIT A

[Title of District Court and Cause.]

Affidavit

Territory of Hawaii,  
City and County of Honolulu—ss.

Mario P. Cortese, being first duly sworn on oath, deposes and says: That he resides at 1516-H Nehoa Street, Honolulu, City and County of Honolulu, Territory of Hawaii; that during the months of November and December, 1946, and January, February and March, 1947, he was employed by Lantis Motors, Limited, a Hawaiian corporation; that during said period, he was employed as shop foreman at the place of business of said Lantis Motors, Limited, at 800 South Beretania Street, said Honolulu; that, as such shop foreman, he supervised and kept the time sheets or cards covering the number of hours of work each day by each employee of

Lantis Motors, Limited; that, as such shop foreman, he supervised and kept the time sheet or card covering the hours of work each day by an employee mechanic of Lantis Motors, Limited, named Oliver Abreu; that said Oliver Abreu was employed by said Lantis Motors, Limited, during the months of November and December, 1946, and January, February and March, 1947; that during the latter part of November, 1946, affiant was present at the aforesaid place of business of Lantis Motors, Limited, when the said Oliver Abreu towed onto the premises where said place of business was located, a certain 1941 Willys jeep; that the motor on said jeep was "frozen"; that thereafter, said Oliver Abreu commenced repair work on said jeep; that, as part of his duties, affiant had occasion to check as to whether the time spent by the said Oliver Abreu in the repairing of said jeep was company time; that affiant ascertained that the said Oliver Abreu was repairing said jeep on his own time; that accordingly, affiant did not include the time spent by the said Oliver Abreu in repairing said jeep as part of the time charged to Lantis Motors, Limited; that the said Oliver Abreu worked on said jeep on various occasions after working hours and on Sundays and holidays; that affiant was present on various occasions after working hours and on Sundays and holidays while the said Oliver Abreu was repairing said jeep; that the reason affiant had occasion to be present on said occasions was because at times some

of the employees worked overtime, and it was his duty to check on said overtime; that the said Oliver Abreu worked on said jeep on various occasions after working hours and on Sundays and holidays during the months of December, 1946, and January, February and March, 1947; that it was common knowledge around the shop at Lantis Motors, Limited, that said jeep belonged to the said Oliver Abreu, and that he, the said Oliver Abreu, was repairing the same on his own time; that at no time during the aforesaid period of time (December, 1946, and January, February and March, 1947) did anyone connected with Lantis Motors, Limited, suggest to affiant that said jeep was owned by anyone other than the said Oliver Abreu; that during the aforesaid period of time, Robert N. Lantis was the president and manager of said Lantis Motors, Limited, and at no time during the said period of time did the said Robert N. Lantis ever suggest to affiant that said jeep belonged to him, the said Robert N. Lantis; that, on the contrary, and during the month of December, 1946, when affiant first had occasion to make a check in his capacity as timekeeper, the said Robert N. Lantis informed affiant that said jeep belonged to the said Oliver Abreu and was being repaired by the said Oliver Abreu on the latter's own time.

And further affiant sayeth not.

Dated: Honolulu, T. H., this 28th day of October, 1949.

/s/ MARIO P. CORTESE.

Subscribed and sworn to before me this 28th day of October, 1949.

[Seal]      /s/ T. OKADA,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

My commission expires: July 21, 1953.

---

EXHIBIT B

[Title of District Court and Cause.]

Affidavit

Robert Nelson Lantis, being first duly sworn on oath, deposes and says: That he is the Defendant herein; that since he was served with the indictment herein, he has made diligent effort and inquiry to determine the names of persons who might have knowledge of the transaction involving the purchase and subsequent use of the Willys jeep mentioned in said indictment, as well as knowledge as to its ownership following its purchase in November, 1946; that, in that said transaction occurred in November, 1946, and over two years prior to the filing of the indictment herein, at a time when Defendant was connected with Lantis Motors, Limited, a Hawaiian corporation (which said Lantis Motors, Limited, went out of business in September, 1949), Defendant, up to the time of trial on October 4, 1949, was unable to locate any witness who had any recollection of and concerning the purchase of said jeep and its ownership thereafter; that following his trial



and conviction on October 4, 1949, Defendant was contacted by one Mario P. Cortese; that, after several discussions with the said Cortese, Defendant discovered that the said Cortese remembered the transaction involving the purchase of said jeep and also had certain knowledge of and concerning said jeep following its purchase; that thereafter, Defendant brought said Mario P. Cortese to the office of his attorney, Daniel G. Ridley, who obtained the affidavit of the said Mario P. Cortese pertaining to facts within the knowledge of said Cortese and involving said jeep; that prior to the aforesaid time the said Cortese contacted the Defendant, Defendant had no reason based upon recollection to suspect that the said Cortese might know anything about the said purchase of said jeep or its subsequent use or ownership; that since September, 1947, Defendant has not had access to the books or other papers or documents belonging to the said Lantis Motors, Limited, and has, therefore, not been in a position to check the records to ascertain who, in the employ of Lantis Motors, Limited, during the latter part of 1946 and in the early part of 1947, might have knowledge of and concerning the transaction involving the purchase of said jeep or its subsequent use or ownership; that, as far as Defendant knows, all of said books and records have been in the possession of one Jack W. Russell who was the secretary of said Lantis Motors, Limited, and the said Jack W. Russell has, since September, 1947, refused the Defendant access to said books and records; that

during a conversation between the Defendant and the said Jack W. Russell on October 31, 1949, the said Jack W. Russell admitted to Defendant that he, the said Jack W. Russell, had in his possession a receipt and other documentary evidence which would establish the fact that during the latter part of 1946, Defendant loaned to the said Oliver Abreu the sum of \$325.00 to purchase the aforesaid Willys jeep, and that the said jeep was for the said Oliver Abreu's own use.

Further affiant sayeth not except that this affidavit is in support of the aforesaid Motion for a New Trial.

Dated: Honolulu, T. H., this 31st day of October, 1949.

/s/ ROBERT LANTIS.

Subscribed and sworn to before me this 31st day of October, 1949.

[Seal] /s/ WILLIAM H. KAM,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

My commission expires: June 30, 1953.

---

### EXHIBIT C

[Title of District Court and Cause.]

### Affidavit

Daniel G. Ridley, being first duly sworn on oath, deposes and says: That he is one of the attorneys for the Defendant, Robert Nelson Lantis; that as

such attorney, he represented said Defendant at the trial of the above entitled matter on October 4, 1949; that prior to said trial, affiant did not know of the witness, Mario P. Cortese, or as to what he would testify to; that prior to said trial and until recently so informed, affiant did not know that there was any other documentary evidence involving that certain Willys jeep referred to in the indictment herein, other than the documentary evidence submitted at the time of the trial.

Further affiant sayeth not except that this affidavit is in support of the aforesaid Motion for a New Trial.

Dated: Honolulu, T. H., this 31st day of October, 1949.

/s/ DANIEL G. RIDLEY.

Subscribed and sworn to before me this 31st day of October, 1949.

[Seal] /s/ WILLIAM H. KAM,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

My commission expires: June 30, 1953.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 31, 1949.

[Title of Court and Cause.]

FROM THE MINUTES OF WEDNESDAY,  
DECEMBER 7, 1949

On this day came Mr. Howard K. Hoddick, Assistant United States District Attorney, and also came the defendant herein with Mr. Daniel G. Ridley, his counsel. This case was called for hearing on motion for a new trial.

Motion by Mr. Hoddick that paragraphs 3, 4, and 5 of said motion be not granted, not having been timely filed, was granted by the Court.

Argument was then had by respective counsel.

At 10:35 a.m., Mr. Albert Grain, court reporter, was summoned by the Court to read the testimony of the witness Abreu at the trial of this case.

Thereafter, the Court denied the motion for a new trial. Exceptions to the Court's ruling were noted by the defendant.

---

[Title of District Court and Cause.]

NOTICE OF APPEAL

The Defendant above named appeals from the Judgment of the Honorable Delbert E. Metzger entered in the above entitled Court and cause on the 4th day of October, 1949.

Name and Address of Appellant: Robert Nelson Lantis, 239-A Beach Walk, Honolulu, T. H.

Name and Address of Appellant's Attorneys: J.



Edward Collins, Bishop Trust Building, Honolulu, T. H., Daniel G. Ridley, 307 Arcade Building, Honolulu, T. H.

Offenses: Count I: Conspiracy to violate Section 80, Title 18, United States Code, by making and causing to be made, presenting and causing to be presented, to and in a matter within the jurisdiction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent application, statement, certificate and representation that one 1941 Willy's jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale. Count II: Knowingly and wilfully made, and cause to be made and aided and abetted in making a false and fraudulent statement and representation and knowingly and wilfully presented and caused to be presented and aided and abetted in presenting to and in a matter within the jurisdiction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent statement and representation, to wit: that one 1941 Willy's jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale.

Date of Judgment: October 4, 1949.

Brief Description of Judgment or Sentence: The

Defendant, having been adjudged guilty on each of the foresaid counts set forth in the indictment, was sentenced to imprisonment for one year and one day on the first count, and was sentenced to pay a fine of \$1,000 on the second count.

Name of Prison Where Now Confined: None—bail posted.

I, the above named Defendant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the Judgment above mentioned.

Dated: Honolulu, T. H., this 15th day of December, 1949.

/s/ ROBERT NELSON LANTIS,  
Appellant.

[Endorsed]: Filed Dec. 15, 1949.

---

[Title of District Court and Cause.]

### NOTICE OF APPEAL

The Defendant above named appeals from the Order of the Honorable Delbert E. Metzger heretofore entered herein on the 7th day of December, 1949, and denying Defendant's Motion for a New Trial.

Name and Address of Appellant: Robert Nelson Lantis, 239-A Beach Walk, Honolulu, T. H.

Name and Address of Appellant's Attorneys: J. Edward Collins, Bishop Trust Building, Honolulu, T. H., Daniel G. Ridley, 307 Arcade Building, Honolulu, T. H.

Offenses: Count I: Conspiracy to violate Section

80, Title 18, United States Code, by making and causing to be made, presenting and causing to be presented, to and in a matter within the jurisdiction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent application, statement, certificate and representation that one 1941 Willy's Jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale. Count II: Knowingly and wilfully made, and caused to be made and aided and abetted in making a false and fraudulent statement and representation and knowingly and wilfully presented and caused to be presented and aided and abetted in presenting to and in a matter within the jurisdiction of the Territorial Surplus Property Office, a branch office of a department and agency of the United States of America, a false and fraudulent statement and representation, to wit: that one 1941 Willy's Jeep, Engine No. MA-79180, and other property would be purchased by Oliver Abreu, a veteran of World War II, for his own and sole use in his own business and not for the purpose of resale.

Date of Judgment: October 4, 1949.

Date of Order Denying Motion for a New Trial: December 7, 1949.

Brief Description of Judgment and Sentence: The Defendant, having been adjudged guilty on each

of the aforesaid counts set forth in the indictment, was sentenced to imprisonment for one year and one day on the first count, and was sentenced to pay a fine of \$1,000 on the second count.

Brief Description of Order Denying Motion for a New Trial: Motion for a New Trial denied on the ground that the newly discovered evidence would not have changed the Court's judgment.

Name of Prison Where Now Confined: None—bail posted.

I, the above named Defendant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above mentioned Order denying my motion for a new trial.

Dated: Honolulu, T. H., this 15th day of December, 1949.

/s/ ROBERT NELSON LANTIS,  
Appellant.

[Endorsed]: Filed Dec. 15, 1949.



[Title of District Court and Cause.]

### ELECTION

Comes now Robert Nelson Lantis, Defendant above named, and hereby elects not to commence service of the sentence of imprisonment heretofore imposed upon him in the above entitled Court and cause.

Dated: Honolulu, T. H., this 15th day of December, 1949.

/s/ ROBERT NELSON LANTIS.

[Endorsed]: Filed Dec. 15, 1949.

---

[Title of District Court and Cause.]

### APPLICATION FOR BAIL

Comes now Robert Nelson Lantis, Defendant above named, and hereby makes application that he may be admitted to bail upon such terms as the Court may prescribe in accordance with Rule 38 of the criminal proceedings relating to the District Courts of the United States of America.

Dated: Honolulu, T. H., this 15th day of December, 1949.

/s/ ROBERT NELSON LANTIS.

[Endorsed]: Filed Dec. 15, 1949.

[Title of District Court and Cause.]

BOND

Know All Men By These Presents:

That we, Robert Nelson Lantis, as Principal, and Fong Hing and Lizzie Fong Hing, as Sureties, are held and firmly bound unto the United States of America in the Full Sum of \$2,000.00 for the payment of which well and truly to be made, we do bind ourselves, our executors and administrators, jointly and severally by these presents,

Whereas, lately, in the District Court for the United States in and for the District and Territory of Hawaii, judgment, sentence and fine were made and entered against Robert Nelson Lantis, Defendant above named, and

Whereas, notice has been given of appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, to secure a reversal of said judgment, sentence and fine, and

Whereas, the Honorable Delbert E. Metzger, Judge of said District Court, did regularly order that a supersedeas and bail bond be given in the sum of \$2,000.00 pending said appeal,

Now, Therefore, the condition of the above obligation is such that if the said Robert Nelson Lantis shall appear here in person or by attorney in the United States Court of Appeals for the Ninth Judicial Circuit on such day or days as may be appointed for the hearing of said cause in said Circuit Court

and prosecute his appeal and shall abide by and obey all orders made by said Circuit Court in said cause, and shall pay any fine, damages and all costs imposed by the judgment of said District Court against him, and shall surrender himself in execution of the judgment, sentence and fine appealed from as said Circuit Court may direct, if the judgment, sentence and fine against him shall be affirmed or the appeal dismissed; and if he shall appear for trial in said District Court on such day or days as may be appointed for a retrial of said cause and abide by and obey all the orders made by said District Court, provided the judgment, sentence and fine made against him shall be reversed by said Circuit Court, then the above obligation shall be void, otherwise to remain in full force, effect and virtue.

In Witness Whereof, the above bounden Principal and Sureties have hereunto affixed their hands this 16th day of December, 1949.

/s/ ROBERT NELSON LANTIS,  
Principal.

/s/ FONG HING,  
Surety.

/s/ LIZZIE FONG HING,  
Surety.

Taken and acknowledged before me this 16th day of December, 1949.

[Seal] /s/ WM. F. THOMPSON, JR.,  
Clerk, U. S. District Court.

Territory of Hawaii,  
City and County of Honolulu—ss.

Fong Hing, being first duly sworn on oath, deposes and says that he is the Fong Hing named as a Surety and who filed the foregoing Bond and that he is worth the sum of \$4,000.00 over and above all just debts and liabilities in property situate in the Territory of Hawaii and subject to execution.

/s/ FONG HING.

Subscribed and sworn to before me this 16th day of December, 1949.

[Seal] /s/ WM. F. THOMPSON, JR.,  
Clerk, United States District Court, Territory of  
Hawaii.

Territory of Hawaii,  
City and County of Honolulu—ss.

Lizzie Fong Hing, being first duly sworn on oath, deposes and says that she is the Lizzie Fong Hing named as a Surety and who filed the foregoing Bond and that she is worth the sum of \$4,000.00 over and above all just debts and liabilities in property situate in the Territory of Hawaii and subject to execution.

/s/ LIZZIE FONG HING.

Subscribed and sworn to before me this 16th day of December, 1949.

[Seal] /s/ WM. F. THOMPSON, JR.,  
Clerk, United States District Court, Territory of  
Hawaii.

Approved as to Form:

/s/ HOWARD K. HODDICK,  
Ass't U. S. Attorney.

Approved as to the Amount and Sufficiency of  
Surety:

/s/ D. E. METZGER,  
Judge, U. S. District Court.

[Endorsed]: Filed Dec. 16, 1949.

---

[Title of District Court and Cause.]

### COST BOND

Know All Men By These Presents:

That we, Robert Nelson Lantis, as Principal, and Mario P. Cortese and Thomas E. Miller, as Sureties, are held and firmly bound unto the United States of America in the Full Sum of \$250.00 for the payment of which well and truly to be made, we do bind ourselves, our executors and administrators, jointly and severally by these presents,

Whereas, lately, in the District Court for the United States in and for the District and Territory of Hawaii, judgment, sentence and fine were made and entered against Robert Nelson Lantis, Defendant above named, and

Whereas, notice has been given of appeal to the United States Court of Appeals for the Ninth Judicial Circuit, to secure a reversal of said judgment, sentence and fine,



Now, Therefore, the condition of the above obligation is such that if the said Robert Nelson Lantis shall prosecute his appeal with effect, and shall answer all costs if he fails to make good his appeal, then this obligation shall be void; otherwise to remain in full force, effect and virtue.

In Witness Whereof, the above bounden Principal and Sureties have hereunto affixed their hands this 17th day of January, 1950.

/s/ ROBERT N. LANTIS,  
Principal.

/s/ MARIO P. CORTESE,  
Surety.

/s/ THOMAS E. MILLER,  
Surety.

Taken and acknowledged before me this 17th day of January, 1950.

[Seal] /s/ WM. F. THOMPSON, JR.,  
Clerk, U. S. District Court.

Territory of Hawaii,  
City and County of Honolulu—ss.

Mario P. Cortese, being first duly sworn on oath, deposes and says that he is the Mario P. Cortese named as a Surety and who filed the foregoing Bond and that he is worth the sum of \$500.00 over and above all just debts and liabilities in property situate in the Territory of Hawaii and subject to execution.

/s/ MARIO P. CORTESE.

Subscribed and sworn to before me this 17th day of January, 1950.

[Seal]     /s/ WM. F. THOMPSON, JR.,  
Clerk, United States District Court, Territory of  
Hawaii.

Territory of Hawaii,  
City and County of Honolulu—ss.

Thomas E. Miller, being first duly sworn on oath, deposes and says that he is the Thomas E. Miller named as a Surety and who filed the foregoing Bond and that he is worth the sum of \$500.00 over and above all just debts and liabilities in property situate in the Territory of Hawaii and subject to execution.

/s/ THOMAS E. MILLER.

Subscribed and sworn to before me this 17th day of January, 1950.

[Seal]     /s/ WM. F. THOMPSON, JR.,  
Clerk, United States District Court, Territory of  
Hawaii.

Approved as to Form:

/s/ HOWARD K. HODDICK,  
U. S. Attorney.

Approved as to the Amount and Sufficiency of  
Surety:

/s/ D. E. METZGER,  
Judge, U. S. District Court.

[Endorsed]: Filed Jan. 17, 1950.

[Title of District Court and Cause.]

DEFENDANT - APPELLANT'S SECOND  
AMENDED DESIGNATION OF RECORD

The Defendant-Appellant, Robert Nelson Lantis, designates the following to be included in the record of appeal:

1. The indictment against Defendant.
2. Clerk's minutes of October 4, 1949 (the date of the trial).
3. Official reporter's transcript of evidence taken and proceedings had during the trial.
4. All exhibits.
5. The judgment, commitment and sentence of the court.
6. Defendant's motion for a new trial and affidavits attached thereto.
7. Clerk's minutes of December 7, 1949 (the date of hearing on motion for a new trial).
8. Official reporter's transcript of hearing on motion for a new trial.
9. Oral order denying motion for a new trial entered December 7, 1949 (included in clerk's minutes).
10. Notice of appeal (from the judgment of the court) filed December 15, 1949.



11. Notice of appeal (from the order denying Defendant's motion for a new trial) filed December 15, 1949.

12. Election (not to commence service of sentence of imprisonment) filed December 15, 1949.

13. Application for bail filed December 15, 1949.

14. Bail Bond filed December 16, 1949.

15. Bond for costs filed January 17, 1950.

16. This designation.

Dated: Honolulu, T. H., this 17th day of January, 1950.

ROBERT NELSON LANTIS,  
Defendant-Appellant.

By /s/ J. EDWARD COLLINS,

/s/ DANIEL G. RIDLEY,

Attorneys for Defendant-  
Appellant.

[Endorsed]: Filed Jan. 17, 1950.

---

[Title of District Court and Cause.]

### CERTIFICATE OF CLERK

United States of America,  
District of Hawaii—ss.

I, Wm. F. Thompson, Jr., Clerk of the United States District Court for the District of Hawaii,

do hereby certify that the foregoing record on appeal in the above-entitled cause, consists of the following listed original pleadings, reporter's transcripts, and exhibits of record in said cause:

Indictment

Judgment and Commitment

Motion for a New Trial and Affidavits

Notice of Appeal (from the judgment of the court)

Notice of Appeal (from the order denying motion for new trial)

Election

Application for Bail

Bond

Cost Bond

Defendant-Appellant's Second Amended Designation of Record

Transcript of Proceedings (October 4, 1949)

Transcript of Proceedings (December 7, 1949)

United States Exhibits Nos. 1, 2, 3, 4-A, 4-B, 4-C, and 5.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court, this 19th day of January, A.D. 1950.

[Seal]     /s/ WM. F. THOMPSON, JR.,  
Clerk, United States District Court, District of  
Hawaii.

In the United States District Court for the  
Territory of Hawaii  
Criminal No. 10,210

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.

ROBERT NELSON LANTIS,  
Defendant.

TRANSCRIPT OF PROCEEDINGS

October 4, 1949, at 9:15 a.m.

Before: Hon. Delbert E. Metzger,  
Judge.

Appearances:

HOWARD K. HODDICK, ESQ.,  
Assistant United States Attorney,  
appearing for Plaintiff;

DANIEL G. RIDLEY, ESQ.,  
appearing for Defendant.

PROCEEDINGS

The Clerk: Criminal No. 10,210, United States  
of America versus Robert Nelson Lantis, for trial.  
There was filed on October 1st a waiver of jury.

The Court: All right.

Mr. Hoddick: May it please the Court, the in-  
dictment in this case charges the defendant, Robert

Nelson Lantis, with having conspired with one Oliver Abreu to violate Section 80, Title 18, U. S. Code. This is in connection with the purchase of surplus property. It is a conspiracy to submit a false statement contrary to law, and then the actual submission of the false statement and representation as the violation is set forth in the second count of the indictment.

We will introduce evidence showing that the veteran Oliver Abreu was employed by the defendant Lantis during the year 1946; that in September of 1946 Lantis came to Abreu and asked him if he was a veteran and if he would purchase some surplus vehicles for him; and that Abreu indicated that he would. Lantis took him down to the surplus property office and assisted him in filling out certain application forms. Approximately two months later Lantis gave to Abreu a blank purchase order and had Abreu sign it. The following day, or a couple of days thereafter, Lantis took Abreu down [2\*] to the surplus property office and the purchase order, in which a request for jeeps had been filled in, had been accepted by the surplus property office. They had the jeeps available. Lantis gave to Abreu \$325 and Abreu turned it over to the surplus property office. Abreu at that time signed the bill of sale on which he indicated that he was purchasing it for his own use, not for resale. And several days thereafter they went out to Iroquois Point and picked up that jeep and another, other jeeps, that Lantis had

---

\* Page numbering appearing at top of page of original Reporter's Transcript.



purchased, and they then went down to the Territorial Motor Vehicle Department and the jeep was registered in Abreu's name, showing Lantis as the legal owner. And some time later the title to the jeep was actually transferred to Lantis.

At no time did Abreu have any use of the jeep or did he buy it for his own use. He purchased it for Lantis who was his employer. And this transaction arose out of the employer-employee relationship. Abreu was never compensated for buying the jeep for Lantis.

Our first witness, unless Mr. Ridley cares to make an opening statement——

Mr. Ridley: Just a short one, if your Honor please. We will show, and it is our contention to show by the evidence, that this was purely a loan transaction. There was never any purchase of this car for Mr. Lantis' use. The car was purchased for Mr. Abreu's use. He did in fact use it and [3] repaired it, and the fact that it was put in Lantis' name as legal owner was by way of security for monies loaned to Mr. Abreu, advanced by Mr. Lantis in order that he might buy it under his veteran's priority. That is in brief what we will show, if your Honor please.

The Court: All right. Proceed.

Mr. Hoddick: Call Oliver Abreu.



## OLIVER ABREU

a witness in behalf of the Plaintiff, being duly sworn, testified as follows:

## Direct Examination

The Court: How old are you?

The Witness: Twenty-eight.

The Court: Twenty?

The Witness: Twenty-eight.

Q. (By Mr. Hoddick): Will you give your full name, please? A. Oliver Abreu, A-b-r-e-u.

Q. And, Mr. Abreu, will you speak loud enough so that both Mr. Ridley and myself can hear you. Are you a veteran of World War II?

A. Yes, sir.

Q. And in what part of the Armed Services did you serve? A. Quartermaster. [4]

Q. You were with the U. S. Army?

A. U. S. Army, yes.

Q. How long were you in the service?

A. Eleven months.

Q. During what period of time?

A. Forty-six September to November '47.

Q. You say '46 when?

A. September I went in, in September.

Q. Could that be September '45?

A. Yes, that's right.

Q. And how long did you serve, eleven months?

A. Yes.

Q. Until? A. Until '46, November.

Q. Until August of '46?

(Testimony of Oliver Abreu.)

The Court: I thought he said November. You say August.

Mr. Hoddick: Well, he said he was in eleven months.

The Court: Yes, I know. He said November. You say August.

Q. Mr. Abreu, do you remember when you were discharged from the Army?

A. I think it is in November '46.

Q. Where did you go to work after you were discharged from the Army?

A. Lantis Motors. [5]

Q. Lantis Motors? A. That's right.

Q. And what did you do at Lantis Motors? What was your job there?

A. Auto mechanic.

Q. That was the only work you did, repairing automobiles? A. That's right.

Q. Have you ever purchased any surplus property? A. That's right.

Q. And what kind of surplus property did you buy? A. Jeep.

Q. A jeep? What led you to purchase this jeep? Why did you purchase the jeep?

A. Mr. Lantis asked me to.

Q. Well, now, will you tell the Court and tell me what Mr. Lantis said when he asked you to buy the jeep?

A. First he asked me if I was a veteran. I told

(Testimony of Oliver Abreu.)

him yes. And he asked me if I'd get him a vehicle from the Army. I told him O.K.

Q. Did he say what kind of a vehicle he wanted you to get?

A. Yes, he wanted a sedan or a station wagon at first.

Q. And after he asked you about that, what did you say? Did you tell him you would? [6]

A. Yes.

Q. Did you and Mr. Lantis ever go down to the surplus property office? A. Yes, sir.

Q. Was that shortly after he asked you if you would buy him a station wagon or a sedan?

A. Yes.

Q. And what did you do when you got in the surplus property office?

A. We filled out an application; took me down there and we came back and I started working again.

Q. Did you fill out the application in your own handwriting? A. Yes, sir.

Q. Had you ever filled out one of those applications before? A. No.

Q. Did you know how to fill it out?

A. No, I didn't.

Q. Who helped you? A. Mr. Lantis.

Q. He was standing beside you when you filled it out? A. Yes, sir.

Mr. Hoddick: Will you mark this for identification purposes? (Handing a document to the Clerk.)

(Testimony of Oliver Abreu.)

The Clerk: U. S. Exhibit "A" for identification.

(The document referred to was marked  
"U. S. Exhibit A for Identification.")

Mr. Hoddick: U. S. "A" for identification purposes is a veteran's application for surplus property, dated September 20, 1946. Attached to it is a document entitled "Certificate No. 10321," also dated September 20, 1946. (Handing documents to Mr. Ridley.)

Q. Mr. Abreu, I show you document marked "U. S. Exhibit A for Identification" and ask you if this is the application that you filled out the first time that you went down to the surplus property office with Mr. Lantis? (Handing document to the witness.) A. Yes, sir.

Q. And that is the application that Mr. Lantis assisted you in filling out? A. That's right.

Q. And this is your signature on the page attached to it? A. Yes, sir.

Mr. Hoddick: I'd like to offer these in evidence, your Honor. (Handing exhibits to the Court.)

The Court: Any objection?

Mr. Ridley: No objection.

The Court: This is an application and a certificate. [8] Is this your handwriting on it?

The Witness: Yes, sir.

The Clerk: U. S. Exhibit No. 1.

(Testimony of Oliver Abreu.)

(The document previously marked "U. S. Exhibit A for Identification" was received in evidence as "U. S. Exhibit 1.")

Q. Mr. Abreu, I show you this application which you said you filled out, U. S. Exhibit 1, and call your attention to the date September 20, 1946. Now, at the time that you filled out that application, you had already been discharged from the Army, had you not? A. Yes.

Q. So you must have been discharged some time before that date? A. Yes, it must have been.

Q. How long had you been working for Lantis Motors at the time that Mr. Lantis took you down to the surplus property office?

A. That I can't say. A couple of months, I guess.

Q. Now, in connection with the purchase of a vehicle from surplus property office, what next happened?

A. He had some kind of a form. He told me to sign my name on it at the shop. That was the next thing.

Q. Now, who had a form? A. Mr. Lantis.

Q. He asked you to sign your name to it? [9]

A. Yes, sir.

Q. And where did you sign your name to it?

A. On the bottom of the form.

Q. I didn't hear you, Mr. Abreu.

A. On the bottom of the particular form.



(Testimony of Oliver Abreu.)

Q. But that was at Lantis Motors that you signed it?      A. Yes, sir.

Q. Was there anything filled in the form?

A. No, sir.

Q. Mr. Abreu, I show you a form entitled "Veteran's Purchase Order," and ask you if this is your signature on the bottom? (Showing a document to the witness.)      A. Yes, sir.

(Mr. Hoddick hands document to Mr. Ridley.)

Q. Now, is this the type of form which Mr. Lantis had you sign your name on the bottom of?

A. Yes, sir.

Q. Did you ever sign any other forms of this kind?      A. No, sir.

Q. You only did that once and that was at Mr. Lantis' request?      A. Yes.

Q. And this is your signature on the bottom of the form?      A. That's right. [10]

Q. And about how long did this occur after the time that you went down to the surplus property office with Mr. Lantis?

A. A few weeks after, I guess.

Mr. Hoddick: I would like to offer this in evidence, your Honor. (Handing document to the Court.)

Mr. Ridley: No objection.

The Court: Received in evidence as exhibit——

The Clerk: U. S. Exhibit No. 2.

(Testimony of Oliver Abreu.)

(The document referred to was received in evidence as "U. S. Exhibit No. 2.")

Q. Now, Mr. Abreu, again in connection with the purchase of a vehicle from the surplus property office, what occurred next in this series of events? What happened next?

A. Well, he told me to go down the surplus office down there on Ala Moana.

Q. How long was that after you filled in, put your name on the bottom of the form—a few days?

A. That I can't say. Some time after. We went down and he told me he is going to get a jeep instead.

Q. You went down together in his car?

A. Yes, sir; and filled out some other forms, and he gave me the money and I gave the fellow the money down in the office.

Q. How much money did he give you? [11]

A. Three hundred twenty-five.

Q. Was there any talk at that time that this was a loan?

A. No, sir. I was getting the jeep for him.

Q. You mean for Mr. Lantis?

A. That's right.

Q. How is it that you were getting a jeep instead of a station wagon or sedan as he had originally requested?

A. Well, I didn't care what he got. That was for him. He said that the sedan was too much money and a station wagon was in bad shape.

(Testimony of Oliver Abreu.)

Q. That's what Mr. Lantis told you?

A. That's right.

Q. So he said he wanted a jeep instead, is that it?

A. That's right.

(Mr. Hoddick shows a document to Mr. Ridley.)

Q. Mr. Abreu, what kind of business was Mr. Lantis in?

A. Auto repairing and U-Drive.

Q. He also had a U-Drive business?

A. Yes, sir.

Q. Did he have a considerable number of vehicles in the U-Drive part of his business?

A. Yes, sir.

Q. And what kind of vehicles did he use in the U-Drive business? [12]

A. All kinds — sedans, jeeps and some Army trucks. I don't know what they call them. Recons, I guess.

Q. The second time you went down to the surplus property office, you say that you filled out some more forms?

A. That's right.

Q. Did you fill those forms out before you paid them the money or afterwards?

A. Before I paid them.

Q. And how much money did you pay them?

A. Three hundred twenty-five.

Q. And that money Mr. Lantis handed to you?

A. That's right.

Q. I show you a document marked "Notice of

(Testimony of Oliver Abreu.)

Sale, Interior Department, Surplus Property Office," dated, a stamp date on it is November 18, 1946, and ask you if this is the form which you signed the second time you went down to the surplus property office with Mr. Lantis? (Handing a document to the witness.) A. That is the one.

Q. You signed it in two places, is that right?

A. Yes.

Q. Now, were there a lot of copies that you had to sign, too? A. That's all.

Q. Mr. Abreu, were there other copies of this form [13] that you signed at that time, do you remember?

A. Well, at that time, the last time I went down I signed a few of them.

Q. You only went down twice?

A. Only went twice.

Q. And you signed this form the second time you went down? A. That's right.

Q. And you signed more than one?

A. Yes.

Mr. Hoddick: I'd like to offer this in evidence, your Honor, as the Government's third exhibit.

(Handing document to the Court.)

Mr. Ridley: No objection.

The Court: Received as exhibit——

The Clerk: U. S. Exhibit No. 3.

(The document referred to was received in evidence as "U. S. Exhibit No. 3.")

Q. Now, Mr. Abreu, when you signed the form



(Testimony of Oliver Abreu.)

that I just showed you, Exhibit No. 3, where was Mr. Lantis?      A. Right alongside of me.

Q. Was he right beside you at the time you paid the money for the jeep?      A. That's right.

Q. What did you do next in connection with getting [14] the jeep?      A. Nothing.

Q. Well, didn't you have to go some place and pick it up?

A. Yes, I went afterwards. We went to pick it up. He sent other employees down and we towed it back—a couple of them.

Q. Did Mr. Lantis go with you?

A. That's right.

Q. And where did you go?

A. Iroquois Point.

Q. And how many jeeps did you bring back from Iroquois Point?      A. I think three.

Q. Did you then do anything about having the jeep registered in your name?

A. Yes, I went down to the City Hall and I had it signed.

Q. Was that the same day that you brought the jeeps back from Iroquois Point?

A. No. I think a couple of days after. Went down there and have it registered and I had it signed in the back of it, and that was all.

Q. Did you ever do any repair work on these jeeps later?      A. I worked on all of them. [15]

Q. And what were the jeeps used for?



(Testimony of Oliver Abreu.)

A. He sold some of them and some of them were used for U-Drive.

Q. Did you ever use them?

A. I never did.

Q. For your own personal use, that is, aside from the business? A. No, sir.

Q. When you purchased the jeep, did you ever intend to make any use of it? A. No, sir.

Q. Were you at all troubled, Mr. Abreu, that the purchase of this jeep might be in violation of the law? A. I didn't know then.

Q. Did you worry about it at all?

A. Well, some time after we got the jeep I asked Mr. Lantis if it won't get me in trouble, me turning over the jeep like that. I was supposed to keep it about a year, somebody told me, and he said no; he said, don't worry about it.

Q. Is that all he said when you asked him about getting into trouble?

A. That's all he said. Some time after that a police officer came over and handed me a subpoena, told me if I owned the jeep. I told him no. And the next day when I went [16] to work I told Mr. Lantis, how come the jeep was under my name yet? So he said he forgot about it, and he was too busy. Then sometime, a couple of days after that again another officer came over with another subpoena, and the jeep was still under my name, which I didn't know. Then after that I guess he changed it to his name.

(Testimony of Oliver Abreu.)

Q. You never went down to the police station in response to those subpoenas? A. No, sir.

Q. Mr. Abreu, you were with Lantis Motors for a couple of years, weren't you?

A. Yes, sir.

Q. Were there any other vehicles around Lantis Motors that had been purchased from surplus property office? A. Yes, sir.

Q. Quite a few of them? A. Yes, sir.

Q. Did Mr. Lantis say anything about these other vehicles at the time you asked him about getting into trouble in connection with this jeep?

Mr. Ridley: If your Honor please, I don't exactly understand the import of counsel's questioning, but it certainly appears to me that he is attempting to show that we purchased other vehicles in violation of the law, and hearsay or supposedly admissions on the part of the defendant after [17] this story that he has told I submit that that is absolutely improper. It is outside the scope of this indictment.

Mr. Hoddick: Excuse me, counsel. That is not the purport of the question or the place where we are going.

Mr. Ridley: In other words, you are talking about legal transactions around there. We admit that we purchased many jeeps legally, but not at that time.

Mr. Hoddick: I will withdraw the question.

(Testimony of Oliver Abreu.)

Mr. Ridley: There is such a thing as a dealer's license, too.

Mr. Hoddick: If I can have a half minute of the Court's time—I'd like to have these marked for identification purposes. They are application for registration of passenger-carrying motor vehicle, dated December 2, 1946; motor vehicle certificate of ownership, dated December 2, 1946; and certificate of ownership, dated July 15, 1947.

The Clerk: You want these marked for identification?

Mr. Hoddick: Please.

The Clerk: Application for registration would be "U. S. B-1 for Identification"; the certificate of ownership, dated December 2, '46, will be "U. S. B-2 for Identification"; and the certificate of ownership, dated July 15, 1947, will be "U. S. B-3 for Identification".

(The documents referred to were marked "U. S. Exhibit B-1, B-2, B-3 for Identification".)

Mr. Hoddick: I'd also like to have marked for identification purposes another copy of the notice of sale, dated December 2, 1946, stamp dated.

The Clerk: Notice of sale will be "U. S. C. for Identification."

(The document referred to was marked "U. S. Exhibit C for Identification".)

Mr. Hoddick: As to "U. S. Exhibit B-1, B-2, B-3 for Identification", and "U. S. Exhibit C for Identi-

(Testimony of Oliver Abreu.)

tification", these documents constitute part of the official files of the Department of Motor Vehicles, and I would like at this time to ask leave of Court to withdraw them, if they are admitted in evidence.

Mr. Ridley: Are these the same documents that I subpoenaed? If those are the same ones—you got them from the City and County Treasurer's Office?

Mr. Hoddick: Yes.

Mr. Ridley: If they are the same ones, I will stipulate that they go into evidence. It is part of our defense. I will stipulate that they may go into evidence, your Honor.

Mr. Hoddick: Well, then, let's have these marked as U. S. Exhibits. U. S. Exhibits for identification purposes, B-1 through B-3 to go into evidence, and U. S. Exhibit for identification purposes C—they are offered in evidence.

The Court: B-1 through 3, and B-C? [19]

The Clerk: No, the other one is C for identification. B-1 to 3 is for identification, and C is for identification?

The Court: Yes. All right.

The Clerk: B-1, 2 and 3 for identification would be U. S. Exhibit 4-A, B and C in evidence; and Exhibit C for identification will be U. S. Exhibit No. 5.

(The documents referred to were received in evidence as "U. S. Exhibit 4-A, B and C" and "U. S. Exhibit 5".)



(Testimony of Oliver Abreu.)

The Court: All right.

Q. (By Mr. Hoddick): Mr. Abreu, I show you U. S. Exhibit No. 4-A, B and C, and U. S. Exhibit No. 5, and ask you if your signature appears on each of those? (Showing exhibits to the witness.)

A. That's right.

Q. Now, at the time that you went down to the——

The Court: What is the answer?

The Witness: Yes, sir.

Q. At the time that you went down to the Department of Motor Vehicles, with Mr. Lantis——

Mr. Ridley: Just a moment, if your Honor please. That is about the fifth time counsel has used the words "went some place with Mr. Lantis". And the witness on previous testimony has testified that he went three times and reduced it to two, and counsel assumes something not in evidence by stating that Mr. Lantis went down to the Department of Motor [20] Vehicles with him apparently for the purpose of making, doing all that registration.

Mr. Hoddick: Mr. Ridley, if you followed the testimony of the witness you would know that he has already testified that he went to the Department of Motor Vehicles with Mr. Lantis after he brought the jeep back from Iroquois Point. And that confines it. I want to make it precise. So this isn't some time when he went down on his own.

Mr. Ridley: I will withdraw the objection, but let him testify, please.

Mr. Hoddick: All right.



(Testimony of Oliver Abreu.)

Q. At that time did you sign your name on the rear of U. S. Exhibit No. 4-C in which you released your equity in the vehicle as the legal owner?

A. That's right.

Q. And when did you sign your name, the signature of the registered owner, releasing interest in the vehicle on U. S. Exhibit No. 4-B? When did that happen?

A. The same day when I went down to the City Hall.

Q. Was that when you had the jeep registered?

A. That's right, same date. I didn't go back again.

Q. So you signed both of these the same day?

A. Yes, sir.

The Court: Well, now, let's have it straight. You went down there alone or with someone? [21]

The Witness: Mr. Lantis took me down.

The Court: Proceed.

Mr. Hoddick: I have no further questions to ask of this witness.

### Cross-Examination

By Mr. Ridley:

Q. Mr. Abreu, again calling your attention to U. S. Exhibit 4-A, 4-B and 4-C and No. 5—let's take No. 5. Do I understand that you took that No. 5, that is, the big one here, down to the City and County Treasurer's Office for the purpose of getting an ownership certificate?

(Testimony of Oliver Abreu.)

A. I didn't take no papers down.

Q. Where did this paper come from?

A. Mr. Lantis had it, I guess.

Q. Mr. Lantis had it? How did you happen to go down if he had the car already?

A. I went with him. That's all. He asked me to go down with him.

Q. In other words, you just went down? And then, do I understand, that after that—what did you do after you got down there, turned this thing into the City and County Treasurer's Office?

A. I don't know. I signed the ownership papers.

Q. You signed the ownership papers? Here is one on December 2nd. That is when you went down, didn't you? [22]

A. I don't remember the date.

Q. Well, it was shortly after, within a week or two after you had gotten the car from Iroquois Point, wasn't it?

A. Some time after we got it.

Q. It was the same year, wasn't it?

A. It's the same year.

Q. And it's noted on there December 2nd. Was that approximately the date that you went down to the City and County Treasurer's Office?

A. I can't say.

Q. And at that time the car was placed in your name, wasn't it? A. That's right.

Q. Then you signed on the back of it, that is, as far as legal owner was concerned at that time,

(Testimony of Oliver Abreu.)

didn't you? Look on there. (Showing exhibit to the witness.) You signed off as legal owner only at that time, didn't you? A. I guess I did.

Q. And you still remained on there as registered owner, didn't you? A. I didn't know that.

Q. Wasn't this certificate here issued to you at that time with your name as registered owner and Mr. Lantis' name as legal owner on that same date, December 2nd?

A. Only what I remember, I went down to the City Hall [23] once with him. That's all.

Q. I understand. But wasn't that issued to you at that time? A. I didn't take it, though.

Q. I understand that. But wasn't that issued at that time? Oliver Abreu as registered owner and Robert Landis as legal owner, after you had signed this original certificate, signed over as legal owner off the original certificate, isn't that correct?

A. It must be. It says over there.

Q. So that you were registered owner at that time, isn't that so? A. Yes.

Q. Now, as a matter of fact, calling your attention to the date July 15 on this second certificate, U. S. Exhibit 4-B, I call your attention to the signature on the back there, one signature Robert Abreu as registered owner and one signature Robert Lantis as legal owner. You signed that off, did you not?

A. Yes.

Q. You didn't sign that off, did you, until July

(Testimony of Oliver Abreu.)

15th, some six or eight months later, isn't that correct?      A. That I don't remember.

Q. Didn't you sign it off about six or eight months later so that Mr. Lantis could then finally get the car in [24] his own name after six or eight months?

A. It must be. That's my signature.

Q. I see. Now, you signed this application on December 2nd, too, where you applied to be registered owner, didn't you?

A. That's my signature.

Q. I see. Wasn't the reason that you had the car placed in your name as registered owner and Mr. Lantis as legal owner on December 2nd was to secure him for your repayment to him for that \$325?      A. He didn't say anything like that.

Q. That wasn't the reason it was placed in your name as registered owner and in his as legal owner?

A. I don't remember that.

Q. Well, do you deny it is a fact?

A. I can't deny it. It says over there.

Q. I see. Now, as a matter of fact, Mr. Lantis never even saw this car before you had purchased it from the surplus property office, had he, this jeep?

A. That I don't know. I can't say he seen it. I didn't go down there and pick it out.

Q. Do I understand, then, what happened in this particular case is that you originally went down and filled out a so-called application for surplus property?      A. I filled that out. [25]



(Testimony of Oliver Abreu.)

Q. On September 20, 1946? Was Lantis with you at that time? A. That's right.

Q. And then this whole thing was filled out at that time, was it not? A. That's right.

Q. And there is one jeep, \$325, note on there, is there not?

A. That wasn't on there at that time. I didn't put that there.

Q. You mean that was not on the application at that time?

A. I didn't put that there. I put this 2 here. I didn't put the jeep down.

Q. Wasn't that scratched off at that time and the jeep filled in there at that time?

A. I don't know.

Q. Was Lantis with you at this time that you went down with this application?

A. That's right.

Q. It's all in your handwriting, isn't it?

A. That's right.

Q. All right. I call your attention to this so-called purchase order application, dated—or veteran's purchase order—dated 9/20, being U. S. Exhibit 2. Is that the [26] purchase order covering the same jeep?

A. I don't know because when I filled that out these names wasn't on there.

Q. I see. Do I understand that after you got this original application or filed it, Exhibit No. 1, that you finally received a notification from the sur-



(Testimony of Oliver Abreu.)

plus property office to the effect that they had a car for you or a jeep for you, is that correct?

A. Waiting to pick it up, you mean?

Q. Had one ready for you?

A. That's right.

Q. Well, what was—is that when you went down to sign this purchase order? A. No, sir.

Q. Well, did you sign that purchase order before or after you were notified by the purplus property office? A. Before.

Q. Before? In other words, you went down. Did you sign this purchase order at the same time that you signed this application? A. No, sir.

Q. Well, they are both dated—no, one is dated 11/12. I see. Then this here, U. S. Exhibit 2, this purchase order was signed by you before you received notification that there was a jeep ready for you, is that right? [27] A. That's right.

Q. I call your attention again to that and ask you if you wish to clarify your testimony? That is dated November 11, 1948, some very few days before you finally got delivery of the jeep.

Mr. Hoddick: 1946.

Mr. Ridley: 1946

Q. Just a few days before you got delivery of the jeep, according to your own testimony. Now, does that refresh your recollection? Was that before or afterwards?

A. I think I signed this before they called me down.

(Testimony of Oliver Abreu.)

Q. Do you know whether you signed it before or after?      A. I am pretty sure.

Q. Was that \$325 on there in red?

A. They had no writing on here.

Q. No writing on there?

A. I just signed my signature on that.

Q. Well, you went down finally, did you not, and signed this so-called notice of sale?

A. Yes, that's my signature.

Q. All right. That is a notice of sale. That covers the specific jeep in question, does it not?

A. Yes.

Q. All right. That is dated November 13, 1946, and this one here, this purchase order, is dated November 12. [28] Does that refresh your recollection as to when you went down?

A. I don't know what you are getting at.

Q. Well, it is the day after that that you got the jeep, isn't it?

A. Well, I didn't care what he got. When we went down he told me he was going to get a jeep. But I didn't care.

Q. Listen, isn't it true that you wanted a jeep?

A. No, sir.

Q. To work and use to run around in while you were working for Lantis Motors, Limited?

A. No, sir.

Q. Are you sure that is not a fact?

A. Yes, I am sure.

Q. So that you would go to and from work and

(Testimony of Oliver Abreu.)

also to go out and pick up parts and things of that nature, isn't that true?      A. No, sir.

Q. Isn't it true, as a matter of fact, that Lantis never even heard about the particular jeep in question until after you brought it back to the shop?

A. That I don't know, because I didn't fill out those numbers here, what it says here.

Q. Well, when did Lantis first find out about it, about this particular jeep? [29]

A. That I don't know. Every time he tells me to go down, I'd go down with him. That's all.

Q. How many times did you go down to the office with him?      A. Twice.

Q. You went down on three occasions, did you not?      A. No, I didn't.

Q. Only twice?      A. Only twice.

Q. And you signed up these three separate documents on two occasions?      A. Three occasions.

Q. Well, which is it, two or three?

A. Three. I signed this one down——

Mr. Hoddick: Mr. Ridley, excuse me. To keep the conclusions from his testimony straight, he said he signed the second document, the purchase order, at Lantis Motors.

Mr. Ridley: That is his testimony, Mr. Prosecutor. If your Honor please, this is cross-examination.

Mr. Hoddick: That's right, but I don't like to have you confusing the witness and leading him all around Robinson's barn.

(Testimony of Oliver Abreu.)

Mr. Ridley: All right.

Q. (By Mr. Ridley): Where did you sign this purchase order? [30] A. Beretania Motors.

Q. Beretania Motors? And you signed that on November 12th?

A. It must be. I don't remember.

Q. And that is the day before you went down and got this notice of sale? A. Yes.

Q. Well, wasn't this \$325 jeep noted on this thing at the time? A. No, sir.

Q. That wasn't on there? A. No.

Q. In other words, you went down and had a complete notice of sale all made out for the following day and ready to pick up the jeep without even having any reference to the jeep the day before, is that correct? A. I guess so. I don't know.

Q. Well, do you have any recollection as to what actually occurred? Do you remember what did occur?

A. What he told me was, sign this, and after that I went down here. He gave me the \$325 and I gave the fellow \$325.

Q. Didn't he give you the \$325 so that you could buy yourself a jeep? Didn't he loan it to you?

A. He didn't loan it to me. I was buying it for him. [31]

Q. Isn't it true, as a matter of fact, that he loaned you the \$325? A. He did not lend me.

A. All right. I will call your attention to one further question. When the jeep came back—you



(Testimony of Oliver Abreu.)

brought the jeep into Lantis Motors, Limited, yourself?      A. Three of us.

Q. In Lantis Motors, Limited, down on 800 Beretania Street?      A. Yes, sir.

Q. That was a Hawaiian corporation, wasn't it?

A. I don't know.

Q. Of which Mr. Lantis was president at the time?

A. I don't know. I was working for Mr. Lantis. That's all I know.

Q. Well, it was down at 800 Beretania Street?

A. That's right.

Q. And that's where you brought the car or the jeep?      A. I took it in the shop, yes.

Q. And you had to tow it down there through-out?      A. Yes, sir.

Q. And didn't you have a conversation with Mr. Lantis at that time when you brought the jeep in as to how come you purchased a wreck like that?

A. No, sir. [32]

Q. You never had any conversation to that effect?      A. No, sir.

Q. Didn't Mr. Lantis at that time tell you you were foolish or crazy to buy such a wreck?

A. I didn't buy it. He bought it.

Q. Well, didn't Mr. Lantis tell you to that effect?      A. No, he didn't tell me nothing.

Q. And didn't he tell you at that time that it wasn't worth the price that you paid for it?

A. He didn't tell me nothing.



(Testimony of Oliver Abreu.)

Q. He didn't tell you anything about that?

A. No.

Q. Try to refresh your recollection a little further. Didn't you tell Mr. Lantis at the time that the reason you wanted it, even though it wasn't worth it, was because you thought you could repair it on your own time in Lantis Motors?

A. I didn't buy it for myself. I wasn't going to use it for myself. I didn't care what he bought.

Q. Do you mean to tell me that Mr. Lantis and yourself purchased this jeep sight unseen, is that the way it happened?

A. Well, he was a pretty good friend of mine and I did that as a favor.

Q. Purchased him a jeep wreck, isn't that correct?

A. That's right.

Q. This thing wouldn't even run for three months, [33] would it?

A. It wasn't running.

Q. It wouldn't even run? How did you get it down to the Treasurer's Office for weight purposes in order to get weighed in so that you could get a certificate of title?

A. That I don't know. I didn't take it down.

Q. As a matter of fact, that jeep was laid up and you worked on it for three months?

A. I don't know how long.

Q. Well, you worked on it for approximately three months, didn't you?

A. Let's say three months. I don't know.

Q. Well, was it more than three months?

(Testimony of Oliver Abreu.)

A. It wouldn't take that long to fix any kind of a car.

Q. What was wrong with it?

A. It was frozen, I think.

Q. And it was a 1941 Willys, wasn't it?

A. That's what it says there.

Q. That's right. And that was one of the worst jeeps ever put out as far as value is concerned?

A. I don't know. It's pretty old.

Q. It was an old one? A. Yes.

Q. And did you have any discussion about repairing [34] it with Mr. Lantis?

A. No, I'd repair anything he'd tell me.

Q. Well, how long did it take you before you had it repaired? A. I can't tell.

Q. But it did take you several months, isn't that correct?

A. That I can't tell you either. There are a few of them there.

Q. Did you ever get the car finally repaired as a mechanic?

A. All of them got repaired finally.

Q. Did you ever drive the car after you repaired it?

Mr. Hoddick: Pardon me, Counsel. I'd like you to frame your questions so we will know which car you are talking about. The witness testified to bringing back three jeeps.

Mr. Ridley: I am talking about the particular

(Testimony of Oliver Abreu.)

jeep in question, which is the only one before your Honor that is being considered.

Mr. Hoddick: There is no showing that the one he worked on in the shop is the one that he brought back from the——

Mr. Ridley: I will clear that up.

Q. You are referring to this jeep that is covered by these various exhibits, which you say you worked on and repaired? [35]

A. I worked on all of them. I can't point out the particular one.

Q. You worked on that particular jeep, did you not?

A. I must have because I worked on all of them.

Q. Is that the only basis of your testimony, that you worked on it, is that you must have because you worked on all of them?

A. Because I can't pick out the particular one.

Q. Did you ever, do you remember working on that particular jeep?

A. Yes, I worked on that jeep.

Q. You remember now to the effect that it was frozen, don't you?

A. Yes, sir.

Q. The engine was frozen?

A. Three of them were frozen.

Q. And the engine on that particular one was frozen?

A. Yes, sir.

Q. You remember that it was a 1941 Willys, don't you?

A. Now I do because the paper says it.

(Testimony of Oliver Abreu.)

Q Now you remember? Otherwise you don't have any recollection of the transaction, is that right? A. That's right.

Q. Well, do you have any recollection as to how you came to purchase this vehicle or this jeep, this particular [36] jeep?

A. I didn't do no purchasing like that. He went down and picked it out himself.

Q. You mean he went down and picked out an old jeep himself ahead of time?

A. That's right.

Q. Where did he go to pick out this jeep?

A. That I don't know. I didn't go with him.

Q. Well, how do you know he went down to pick it out? A. He must have. Who else?

Q. In other words, you are just assuming that he went down, is that correct?

A. It must have been him.

Q. You mean to say that you think now that Mr. Lantis went down and picked that out, that old wreck jeep, for \$329? A. Yes, sir.

Q. At the time that jeep came in into Lantis, it wasn't worth half of that?

A. They were selling all at that particular price.

Mr. Hoddick: I move that the answer be stricken, whatever it was.

Mr. Ridley: No objection, if your Honor please.

The Court: I got the question. All right. You are both in agreement. It may be stricken.

Q. Now, then, you finally left Lantis Motors,



(Testimony of Oliver Abreu.)

Limited, [37] around April or May somewhere or half of June in 1947? That's about five or six months after this so-called jeep purchase?

A. No, sir. I kept on working there but not for him.

Q. How long did you work for Lantis Motors?

A. About a year.

Q. About a year? A. That's right.

Q. Were you there on September 9th? Were you there in September when the firm closed down?

A. One year.

Q. Do you remember, as a matter of fact, that Mr. Jack Russell and one Mr. Cyles on September 19th, to refresh your recollection,—

A. Yes, I worked for him.

Q. —finally severed their connections on September 19, 1947, from Lantis Motors, Limited?

A. Yes.

Q. Then they reopened the place under their own names, Beretania Motors? A. That's right.

Q. Were you working at that time for Mr. Russell and Mr. Cyles? A. That's right.

Q. Now, as a matter of fact, Mr. Lantis was there during the early part of the year 1947, was he not?

A. That's right.

Q. And around about the end of April, 1947, or the early part of May, he turned over the business to Mr. Cyles and Mr. Russell to run, didn't he?

A. I guess so.

Q. Well, you know that following that, two or



(Testimony of Oliver Abreu.)

three months following that, that Mr. Russell and Mr. Lantis and Mr. Cyles had a falling out and that they started suing one another, you know about that, don't you?      A. Yes, sir.

Q. And wasn't it about July, after they were having this altercation, the three of them as stockholders, that you finally went down to Mr. Lantis and gave him not only the white slip to the car but signed off under date of July 15th so he could take that car back into his own name, or take it into his own name?

A. Like I said, the only time I knew that the car was under my name yet—the police officer handed me a subpoena over in my place. Then the next day I approached him and I told him, I thought you said that the car was yours; it's still under my name. He said he will have that fixed; he was too busy; he didn't have time. So a couple of days after that I had another subpoena, and I went back to him. I was pretty mad about it. I didn't use the jeep. Why should I have the ticket under my name? [39]

Q. Isn't it a fact that Mr. Lantis takes care of all subpoenas for his employees down at the police department, no matter whose car they were driving during the time that you worked for them?

Mr. Hoddick: Objection. That calls for a conclusion on the part of the witness. Objection. He can't know, as a matter of fact, what Mr. Lantis did as to other employees.

(Testimony of Oliver Abreu.)

Mr. Ridley: I think he is familiar with that. I will withdraw the question.

Q. Aren't you familiar with the fact that Mr. Lantis did take care of all subpoenas for traffic violations for his employees down there?

Mr. Hoddick: Objection.

A. I don't know.

Mr. Hoddick: Objection again. He can testify as to particular subpoenas he has knowledge of.

Mr. Ridley: I will submit to your Honor's ruling.

The Court: The witness answered. He said he didn't know.

Q. (By Mr. Ridley): Now, then, isn't it true that it wasn't until July, now that you refreshed your recollection, the 15th, 1947, that you finally transferred the ownership absolutely to Mr. Lantis?

A. I don't remember no dates. [40]

Q. Well, you don't remember any date in spite of that certificate of ownership?

A. I don't remember when I signed that. I know I signed it over to him.

Q. All right. I will ask you one further question in that connection. Isn't it true that after you went down on December 2nd and got your original certificate, the two original certificates before, that it when you first got it in your name, and after you signed off and got it registered in both of your names, that is, signed off on the original, both of our names as owner on December 2nd, isn't it true that you later received a white registration slip from

(Testimony of Oliver Abreu.)

the City and County of Honolulu, Treasurer's Office?      A. I didn't.

Q. Wasn't that mailed to you some time later?

A. I don't remember.

Q. Isn't it true that you didn't, that you weren't able to dig up that slip until July 15th, 1947, when you finally signed off the whole ownership of that jeep to Mr. Lantis?

A. I didn't get you then.

Q. Well, when you finally signed off to Mr. Lantis the legal ownership, that was some six or eight months after the original transaction, wasn't it? You don't deny that, do you? [41]

A. I can't say.

Q. O.K. Isn't it true at that time that you finally produced the white registration certificate you had in your possession for a number of months previous?

A. I didn't have the white slip.

Q. You didn't? You deny that?

A. That's right. I didn't have it.

Q. All right. I will ask you if it isn't true that at the time that you signed over the legal ownership to Mr. Lantis he finally got a hold of you and made demand on you, or just prior to that, he got a hold of you and made demand not only for the \$325 that you owed him but also the amount of the bill that you had with Lantis Motors, Limited, isn't that true?

A. No, sir. I didn't pay him for no repair bill.

(Testimony of Oliver Abreu.)

Q. I understand that. But isn't it a fact that he got a hold of you before you signed off and made demand upon you not only for \$325 but also a certain bill that you owed Lantis Motors, Limited?

A. No, sir. I didn't owe him no money.

Q. And isn't it true, as a matter of fact, that you finally agreed, because you couldn't raise the money yourself, that you finally offered to transfer the jeep to Mr. Lantis's satisfaction of these two indebtednesses?

A. We didn't talk nothing of the sort. [42]

Q. And yet you had no recollection when any of these transactions occurred?

A. That's right.

Q. This is the only transaction that was involved, this one jeep that you ever were involved in, isn't it?

A. Yes.

Q. Now, one or two more questions. Mr. Russell took over the management of Lantis Motors, Limited, at 800 Beretania Street, right after, about May of 1947, did he not?

A. I don't remember the date. Right after. He didn't have control, I know.

Q. Right after? That is the time that they were trying to settle up the affairs of the concern?

A. Yes.

Q. You remember that? That was during the summer or almost in the summertime?

A. I don't remember the dates.

The Court: Which Jack Russell is this?

Mr. Ridley: Which, if your Honor please?



(Testimony of Oliver Abreu.)

The Court: Which Jack Russell is it you are talking about?

Mr. Ridley: One Jack Russell. That's about all I can describe him by, if your Honor please. It is not the lawyer, if that is what your Honor is referring to. He is just an individual by that name.

Q. He was at the time a stockholder in Lantis Motors, Limited, or do you know that?

A. I don't know.

Q. Well, he was the man managing after Mr. Lantis left? A. That's right.

Q. Now, isn't it true that after Mr. Russell and Mr. Cyles in September both quit the concern and opened up their own place—you remember that much—— A. Both of them quit.

Q. ——didn't they both quit and open up their own place under the name of Beretania Motors?

A. That's after Lantis left.

Q. I mean after Lantis left. A. Yes.

Q. You remember that? And you continued to work for them, did you not? A. Yes.

Q. All right. The following year, in 1948, there was a fire that occurred out there, wasn't there?

A. That's right.

Q. And isn't it true that——

Mr. Hoddick: Objection. Can I have some offer of proof on this? I think we are going pretty far afield, a fire in 1948, and changed management in the latter part of '47. What does this have to do with the instant case? [44]



(Testimony of Oliver Abreu.)

Mr. Ridley: Well, you can move to strike it.

Mr. Hoddick: Well, I object to the question. I suggest that you make an offer of proof if you consider it material and relevant.

Mr. Ridley: I don't see any necessity, if your Honor please, of going into that extent.

The Court: But that is true about making an offer of proof. I can't see where this is cross-examination.

Mr. Ridley: Well, that, of course, if your Honor please, wasn't the ground of the objection.

The Court: What?

Mr. Ridley: That wasn't the ground of the objection, if your Honor please.

The Court: Well, I know, but then I don't care to listen to something that as far as I can see has no relevancy.

Mr. Ridley: Well, I will withdraw the question. I have one or two more questions.

Q. When was the first time that you finally were contacted about this matter by the F.B.I.?

A. This was right after the police officer handed me the subpoena; Mr. Newberg came to the shop and talked to me about it.

Q. Of the F.B.I.?                      A. That's right.

Q. And when was that? What year? [45]

A. I don't remember what year. Some time after that.

Q. Was it before you transferred the car to Mr. Lantis in 1947?                      A. It was after that.

(Testimony of Oliver Abreu.)

Q. Oh, after that? A. Yes.

Q. Well, do you have any recollection when it was?

Mr. Hoddick: I will object to a continuation of the questions as to the investigation that was made in the matter. I don't think that is material or relevant.

Mr. Ridley: If your Honor please, it goes to the credibility of the witness, as to how come this story was never told until some two years later.

The Court: Go ahead.

Q. It was only here last year, isn't that true, about six months or eight months ago or maybe nine months ago that you were finally contacted about this case? A. That's right.

Q. And isn't it true that Mr. Jack Russell over in 800 Beretania, Beretania Motors, whom you formerly worked for, told you to go down and tell the F.B.I. about this? A. No, sir.

Q. That is not true?

A. That is not true.

Q. Didn't he threaten, if you didn't go down there [46] and tell about this, that he'd see that criminal prosecution was taken against you in connection with that fire that occurred there in 1948?

A. He did not.

Q. Are you sure about that?

A. I am positive.

Q. How did you happen to go down to the F.B.I.? A. I did not go down.

(Testimony of Oliver Abreu.)

Q. And you mean to say they did not contact you until almost two years after this thing occurred? A. That's right.

Q. Did you discuss the matter with Jack Russell?

A. No, sir. I had nothing to do with the jeep.

Q. You know, as a matter of fact, that Jack Russell reported this and asked you to go down to report as a witness?

A. He did not talk to me about it.

Mr. Ridley: That's all, if your Honor please.

The Court: We will take a recess.

(A recess was taken at 10:30 a.m.)

### After Recess

### Redirect Examination

By Mr. Hoddick:

Q. Mr. Abreu, at the time that the jeep was purchased from surplus property office, did you have a car? A. Yes, sir. [47]

Q. What kind of a car was it?

A. '32 Ford Roadster.

Q. Was it in running condition?

A. Yes, sir.

Q. You used it every day? A. Yes, sir.

Q. Did you ever see this jeep or any of the jeeps that you picked up at Iroquois Point before the day you went down there for them?

A. No, sir.

(Testimony of Oliver Abreu.)

Q. You testified on cross-examination that a Mr. Lantis left the business in May of 1947.

A. 1947, I don't know the month.

Q. Well, could you give us an approximate date on it?

The Court: Well, what is the materiality of that?

Mr. Hoddick: Your Honor, I am endeavoring to fix the time when the witness placed his signature on the transfer of the equitable interest in the jeep.

The Court: Well, aren't the papers dated?

Mr. Hoddick: But there is no reason to suppose that the signature was placed on the certificate at the time of the date stamped.

The Court: All right.

Q. Now, I ask you if you knew approximately when Mr. Lantis left the business there in Bere-tania Street? [48]

A. That I can't say.

Q. I didn't hear your answer.

A. I can't say that. I don't remember.

Q. Did you sign both of these exhibits, U. S. B-2 and U. S. B-3, at the same time?

A. I don't remember.

Q. You remember signing them both, though? At least, that is your signature?

A. I don't remember signing them both. As I said, I only went down to the City Hall once.

Q. Well, did you at any time other than the time that you went to the City Hall sign any papers

(Testimony of Oliver Abreu.)

concerned with the registration of the jeep, either at Lantis Motors, at your home, or anywhere else?

A. I don't remember.

Mr. Hoddick: No further questions.

Recross-Examination

By Mr. Ridley:

Q. You knew you had to sign off some time after the first transaction because the jeep was registered in your name? A. That's right.

Q. So it was six or eight months after you finally signed off, isn't that correct?

A. That's what the paper said. [49]

Q. I understand that. But according to your recollection, isn't that true?

A. It must be true.

Q. You had a couple of subpoenas, according to you, on account of the fact that the car was in your name, isn't that true? A. That's right.

Q. And that was several months after this original transaction, wasn't it?

A. That's right.

Q. So therefore it must have been after you got those subpoenas that you finally signed over completely, isn't that correct?

A. That I don't remember, signing the thing off to him.

Q. Oh, you don't have any recollection of ever signing it off? A. No.

Mr. Ridley: That's all.



The Court: All right. Call the next witness.

(Witness excused.)

Mr. Hoddick: Those are all the witnesses for the Government, your Honor.

The Court: All right. The Government rests?

Mr. Hoddick: The Government rests. [50]

The Court: All right. Proceed.

### ROBERT NELSON LANTIS

a witness in his own behalf, being duly sworn, testified as follows:

#### Direct Examination

By Mr. Ridley:

Q. State your full name.

A. Robert Nelson Lantis.

Q. And you are the defendant in this case?

A. Yes.

Q. You reside here in Honolulu, City and County of Honolulu, Territory of Hawaii?

A. Yes.

Q. Back in 1946 or the latter part thereof, were you connected with the Lantis Motors, Limited?

A. Yes.

Q. Was that a Hawaiian corporation?

A. Yes.

Q. And do you have any recollection as to when that corporation started to do business or when it was organized?

A. Around the first of August, 1946.

(Testimony of Robert Nelson Lantis.)

Q. I am talking about when it was incorporated.

A. July.

Q. July? A. '46. [51]

Q. Is that when you first decided to go into business or when the articles of incorporation were filed, Mr. Lantis?

A. We opened up in July. The corporation was filed—I couldn't say that. It was later.

Q. About a month later, isn't that true?

A. About a month maybe before we got the seal.

Q. Well, just to refresh your recollection, isn't it true that it was about September 1st or thereabouts that the corporation papers were organized?

A. Yes.

Q. And prior to that time what business were you engaged in? A. Used car business.

Q. And where was that used car business located? A. 1982 Kalakaua Avenue.

Q. And is that the same place where Lantis Motors, Limited, was opened up?

A. No, sir.

Q. Where was that opened up?

A. 800 South Beretania.

Q. And that Maluhia U-Drive, 1982 Kalakaua, that's out in Waikiki, is it not? A. Yes.

Q. And do you have any recollection of Mr. Abreu here working for Lantis Motors, Limited?

A. Yes.

(Testimony of Robert Nelson Lantis.)

Q. And do you recall approximately when he came to work for Lantis Motors, Limited?

A. It must have been about September.

Q. Of 1946? A. 1946.

Q. That was, then, right after the corporation was organized? A. It was just started.

Q. And at that time or after the corporation was organized, during the time of its incorporation, what was your official capacity in the corporation?

A. President, treasurer.

Q. And were there any other officers?

A. Yes, we had the regular officers, secretary and vice-president.

Q. Who was the vice-president and secretary?

A. Jack Russell.

Mr. Hoddick: I object. I think we are going too far afield there. We are not interested in the corporate structure of the Lantis Motors, Limited. It is immaterial and irrelevant.

Mr. Ridley: This is just preliminary, your Honor, to lay the background for the witness' recollection and to fix the time. That's all. [53]

The Court: Go ahead.

Q. Now, then, do you recall how long Mr. Abreu worked for the corporation?

A. Approximately six months.

Q. Do you of your own knowledge have any idea as to when he terminated his employment with the corporation?

A. He left some time in May, I think it was.

(Testimony of Robert Nelson Lantis.)

Q. Well, were you present at the time that his employment was terminated? A. Yes.

Q. And at that time in May were you still connected with the corporation? A. Yes.

Q. And from there on—May, 1947?—and from there on did you continue to be connected with the corporation? A. We were——

Q. Directly, I mean. A. Yes.

Q. Well, you mean to say from May to the summer, until the corporation closed, you were directly connected with them?

A. We were in negotiation with two other parties.

Q. Who ran the business there at the time of Mr. Abreu's termination?

A. Mr. Russell and Mr. Cyles took over. [54]

Q. When did you actually terminate your management of that business out there, approximately?

A. Around the same time, in June, May or June.

Q. I see. So that between the time the corporation was organized up until the time that, up until May or June, you were the president and manager of the corporation, is that correct? A. Yes.

Q. And as president and manager of the corporation you ran the business, is that correct?

A. We ran it, a corporation, yes.

Q. And it was about the same time that you left that Mr. Abreu left, as I understand your testimony? A. Yes.



(Testimony of Robert Nelson Lantis.)

Q. All right. Now, do you recollect the transaction involving this jeep in the present case?

A. Yes.

Q. When did you, what was your first connection with the actual obtaining of that jeep? When did that take place and under what circumstances?

A. Well, he started to work a short time when he came to me and told me he had a number to buy surplus vehicles. And I said, well, that doesn't involve me in any way. Well, he said, I'd like to have it and would you make me a loan to buy it? And he was a pretty good mechanic. I kind of liked him. And I thought, well, told him he could work out the debt to me. I'd take it out of his wages some way through the company. So when the number come up, why, he came up with the papers, showed me what he was going to get. It was either a jeep or a truck. And it turned out when he brought it into the company it was a jeep. It was the first time I had seen it.

Q. Now, I call your attention to this document here, U. S. Exhibit No. 1, purporting to be the original application by Mr. Abreu for surplus property. Did you ever see that document before?

A. Not that one.

Q. Did you ever go down to the surplus office with Mr. Abreu when that document was signed? Look at it. (Showing exhibit to the witness.)

A. No, I never went down there once.

Q. I call your attention to another document,



(Testimony of Robert Nelson Lantis.)

dated November 12, 1946, purporting to be a veteran's purchase order. Did you ever see that document before?

A. Yes. That's the one he brought back from the surplus office and showed me that he was getting a jeep, that he would secure a loan through that.

Q. Was all that writing there at the time he brought it back to you? A. Yes. [56]

Q. And where did he show that to you?

A. In the office of Lantis Motors.

Q. Did you have anything to do with the filling of this thing out?

A. No, I didn't. It is none of my writing out there. It was all filled out when he brought it.

Q. Was the \$325 noted on there?

A. Yes, that was the amount he wanted.

Q. I see. Well, did you at any time agree to loan him the \$325 so he could purchase this jeep?

A. I promised him if he worked good I would make him the loan. If I done as registered owner—

Q. Following the loan, U. S. Exhibit 2, did you in fact loan him the \$325?

A. Repeat that.

Q. Did you in fact loan him this \$325, and if so, when?

A. At the time when he went down to pay for the jeep I loaned him the \$325.

Q. Was that before or after?

(Testimony of Robert Nelson Lantis.)

A. Oh, this? With this on it? When he showed me what the amount would be.

Q. You are familiar with veteran's priorities?

A. No, I am not.

Q. Well, are you familiar with purchases from the [57] surplus property office?

A. No, I am not. I am not a veteran so I don't know.

Q. Well, are you yourself familiar with the purchases over there with the surplus property office as to how you go about it and who you see and everything of that nature? A. No, I am not.

Q. Have you ever made any purchases from the surplus property office through other parties than yourself? A. Prior to this, no.

Q. Well, have you since that time?

A. Yes.

Q. And who have you made your purchases from? A. Through veterans dealers.

Q. And now, calling your attention to U. S. Exhibit No. 3, did you ever see that document or a signed copy thereof?

A. I saw it when he brought the jeep in. That's when he got the money——

Q. Did you go down with Mr. Abreu to the surplus property office when this thing was signed and filled out? A. No.

Q. Now, then, did you ever go out—withdraw that. You stated that a jeep was in fact purchased and you loaned the \$325? A. Yes. [58]

(Testimony of Robert Nelson Lantis.)

Q. All right. When was it that you first saw that jeep?

A. A few days after he showed me the purchase order and I loaned him the money.

Q. And what happened then? Where did you see him?

A. He brought it into the garage.

Q. What condition was it in?

A. Bad shape. It didn't run. Two front wheels were gone, if I remember correctly. No top.

Q. Had you been in the business of selling used cars prior to that time? A. Used cars.

Q. How long prior to that time had you been engaged in that business?

A. Well, here about a year.

Q. Were you familiar with the prices of used cars and jeeps, and so forth, during about around that period of time? A. Yes.

Q. As to what you could get for them? Well, from your recollection as to the condition of that jeep, what was its market value at the time it was brought to Lantis Motors, Limited?

A. Well, all I could see was good was parts, about \$150. The motor was no good. [59]

Q. Did you have any discussion with Mr. Abreu relative to that purchase of that jeep after he came back to the office of Lantis Motors, Limited?

A. Well, I was disappointed in his judgment. I told him, how do you expect to get it to run? You'd lose money on the deal.

(Testimony of Robert Nelson Lantis.)

Q. What did he say, if anything?

A. Well, he said, leave it up to me; I can fix anything. Well, I had a lot of faith in him and thought he could.

Q. Well, was anything done relative to registration of that jeep with the City and County Treasurer's Office?

A. Yes. I'd say a few, or maybe a week or so later, why, we had to get it weighed, so it was sent down. I think he took it down with some of the boys in the garage to get it weighed, if I remember. I don't know who took it down. And he brought the weight slips back. And he and I together went down to the City and County.

Q. I see. And calling your attention to Exhibit 4-A, 4-B and 4-C, and No. 5 for the U. S. Government, were any of these documents involved in the registration of that car at that time?

A. This was the document to show that he had purchased the jeep.

Q. And you are referring now to plaintiff's or U. S. [60] Exhibit No. 5, is that correct?

A. Yes.

Q. Is that what you took down to the City and County Treasurer's Office with Mr. Abreu?

A. That's all we had.

Q. All right. And did you have the car registered down there when you took it down?

A. Yes.

Q. In whose name was it registered?



(Testimony of Robert Nelson Lantis.)

A. It was registered in his name.

Q. And was there any immediate registration thereafter with yourself and his name, both?

A. Right at that time I went on as legal owner to secure the loan. I told him I'd have to do that.

Q. And calling your attention to Exhibit 4-C, is that the first registration in his name?

A. Yes, that is the first one.

Q. And did he at that time sign off and you signed on, sign off as legal owner and you signed off as registered owner?

A. Yes, we did it right there.

Q. And was it immediately thereafter that you got Exhibit No. 4-B where you registered as legal owner and Mr. Abreu registered as the registered owner?

A. Yes, right there they gave the white and yellow— [61] they gave the white to him and I took the yellow for my record.

Q. And where was the jeep at that time?

A. It was up in the garage.

Q. And was it in running condition?

A. No.

Q. Well, did it ever get into running condition?

A. About three to four months later.

Q. And who fixed it?

A. Well, it was fixed there in the garage by mechanic Mr. Abreu.

Q. And when you say the garage, whom did the garage belong to?

A. Lantis Motors.



(Testimony of Robert Nelson Lantis.)

Q. That's Lantis Motors, Limited, a Hawaiian corporation? A. Yes, sir.

Q. And do you remember, do you recall approximately the date that it was fixed up, what time, or approximately?

A. The first time it was fixed was about the time when he left, around in May.

Q. Was it fixed at that time?

A. Approximately. It broke down every time he got it fixed. Something was wrong with it.

Q. You mean it was fixed before and broke down? [62] A. Yes.

Q. When it was fixed, who operated this particular jeep? Who operated it when it was fixed?

A. Well, he used it to run parts in, to go home at night.

Q. Now, then, on May 7th you said you left—not May 7th—around the month of May or June you left Lantis Motors, Limited, on account of the dispute with the stockholders?

A. That's right.

Q. Where did you go over from there?

A. Over to the U-Drive.

Q. At that time Mr. Russell took over the management and you went over and managed your own personal business, is that correct? A. Yes, sir.

Q. Now, all right. At that time did you take any of your stuff, parts or personal property, away from Lantis Motors, Limited, over to where you had your personal business?

(Testimony of Robert Nelson Lantis.)

A. Yes, we took some of the cars, plus I took this jeep over there.

Q. And you took the jeep over at that time?

A. It was still under repair; something else wrong.

Q. How did you happen to take that jeep over at that time?

A. Well, they wanted to sort of clear over the garage, [63] this new organization which we had would start fresh in there.

Q. And was the jeep at that time in running condition?      A. No.

Q. And thereafter did you do anything in reference to the jeep?

A. Well, I tried to repair it. We had to get a new clutch for it. In the meantime I tried to get a hold of Mr. Abreu who had quit previously, tried to get some of the money out of it or else transfer it over to myself, whatever he wanted to do. I wanted to see what he would do about the jeep.

Q. Well, did you ever finally get a hold of him relative to collecting your loan?

A. About the latter part of June I ran across him.

Q. And where was that?

A. Coming out of Beretania Motors where he had gone back to work for this company.

Q. Did you make demands for the money?

A. Yes.

Q. What did he say, if anything?

(Testimony of Robert Nelson Lantis.)

A. He said he couldn't pay it; you just keep the jeep and call it square.

Q. And what happened as a result of that statement on his part? Did you take over the jeep?

A. He went over to the U-Drive where I had the title [64] and he signed it over to the U-Drive in my place.

Q. And when you are saying about signing over, you mean he signed off on the back of U. S. Exhibit No. 4 here? Just look at this one, U. S. Exhibit No. 4. Is that the document you are talking about, the certificate of title where you appear as legal owner and Abreu appears as registered owner?

A. That's the one he signed off.

Q. And approximately when did you say he signed off on that?

A. Around the first of July.

Q. And that was in payment of this loan?

A. That's right.

Q. Was there any other money involved besides that \$325 loan?

A. Yes, he owed a bill to the previous company, Lantis Motors, of around \$57.

Q. And was that considered in this transaction of the transfer of the vehicle to you? A. Yes.

Q. Or was that only, did that only involve the \$325?

A. Well, that was some of the repairs in an accident he had with another vehicle down there that we charged him for through the company.

(Testimony of Robert Nelson Lantis.)

Q. Now, then, you recall now approximately when it [65] was? I notice there is a date on here, July 15th, stamped on here, apparently by the Treasurer's Office. With that date in mind, does that refresh your recollection as to approximately when Mr. Abreu signed off?

A. Yes, it does.

Q. Transferred the car to you?

A. I just happened to think about something. It must have been within less than ten days because you shall go down within a week to ten days to change the registration of any vehicle; that's the law.

Q. So this was some time in within ten days prior? A. A week to ten days.

Q. I notice you signed off there or signed off there as legal owner and——

A. They make out a new registration and make me both registered and legal owner.

Q. And you are on also as the new registered owner? You signed on as the new registered owner?

A. That was on the 15th.

Q. I see. Now, then, prior to taking a transfer of this car into your own in satisfaction of this loan to Mr. Abreu, did you have any discussion as to the propriety of that matter, as to whether it was legal or valid, with Mr. Abreu?

A. Well, he told me about, that he had some tickets [66] on the vehicle, and I told him, I said,



(Testimony of Robert Nelson Lantis.)

well, they are all taken care of. I usually take care of the boys' tickets when they were using them; specially if they got a parking ticket downtown I paid for the parking ticket. So he said, he asked if there are any more. I said, not that I now of. So to make sure, I had him call up the veterans office down at the Ala Moana some place and check to see if it was O.K. if he transferred it.

Q. And where did that call take place?

A. At Maluhia.

Q. And were you present?

A. I was there. And I later talked to the Veterans Administration.

Q. As a result of that conversation, when he called the veterans office, what did he tell you?

A. He said it was all right. And Mr. Abreu even mentioned, he said that he had no use for the jeep and he needed the money and he'd like to sell it anyway. And I said, well, go ahead.

Q. All right. Did you talk then to the veterans, the surplus property office, on the deal?

A. The Veterans Administrator.

Q. And you recall who you talked to down there?

A. A Japanese man. I don't remember his name.

Q. And what did you ask him? [67]

A. I asked him if it was all right for me to take over this vehicle, and he said yes, even go——

Mr. Hoddick: I object to whatever he was told by the surplus property officer. We have no way of cross-examining him. It is hearsay.



(Testimony of Robert Nelson Lantis.)

Mr. Ridley: If your Honor please——

Mr. Hoddick: We can't test this story that your witness——

Mr. Ridley: ——he can testify as to the fact that he called the surplus property office to find out whether it was O.K. to transfer it. As a matter of fact, that is part of the element in showing good faith, if your Honor please, or lack of any possible criminal commission in the matter.

Mr. Hoddick: Then I think Mr. Ridley should get hold of the surplus property man and come down here, if it was a proper transaction, and you can probably get anybody from the surplus to test the propriety.

Mr. Ridley: That isn't the point.

The Court: All right. Go ahead. But just keep away from too much hearsay.

Mr. Ridley: All right.

Q. Did you ever go down and inspect or look over this jeep at any time, either on behalf of Mr. Abreu or anyone else before the jeep was actually delivered to your shop?

A. No, sir, I never saw it before that time.

Q. Have you purchased jeeps subsequent to that time? [68] That is, from dealers, and so forth?

A. You mean before?

Q. No, either subsequent or around that time or since. A. Since, yes.

Q. You have had an opportunity to go out and inspect them before you buy them?

(Testimony of Robert Nelson Lantis.)

A. I didn't. They bought them. I bought them off them.

Mr. Ridley: You may cross-examine.

### Cross-Examination

By Mr. Hoddick:

Q. Mr. Lantis, where is this jeep now, do you know?

A. No, I don't. It was sold several months after I acquired the registration in July.

Q. Sold some time in 1947?

A. Some time.

Q. How much did you sell it for?

A. I don't remember. We sold several cars together as a unit; approximately brought back three hundred fifty or four hundred dollars.

Q. The jeep itself did or all three cars together?

A. Well, it's hard to say there. I don't even remember what cars were sold.

Q. Can you tell us to whom you sold it?

A. I sold it to this party that was buying them, going to some outside island. I don't know whether it was Japan or down one of the other lower islands.

Q. Do you remember his name?

A. No, I don't.

Q. Do you remember what kind of cars you sold him?

A. I sold him various, several jeeps and I think it was another surplus vehicle, command car.

Q. By "several jeeps" you mean two jeeps?

(Testimony of Robert Nelson Lantis.)

A. Two jeeps.

Q. And one other vehicle? And do you remember what the total price was for all three?

A. No, I don't.

Q. And you say he said he was going down to the Pacific island some place?

A. That's right.

Q. You don't remember his name?

A. No. They had an "ad" in the paper when he come around. I wanted to get rid of the jeep. It was sitting around, no good.

Q. You never had any other business dealings with him?      A. No.

Q. Was the jeep running at the time you sold it to him?      A. No, it wasn't.

Q. Do you know what was the matter with it?

A. The clutch went out on it again.

Q. Something which would require how much in the way of repairs?

A. Maybe a hundred dollars.

Q. Do you know what jeeps were selling for in 1947?

A. Good ones sold for so much; junk for another price.

Q. How much did good ones sell for?

A. About four, five hundred.

Q. That was the maximum price you could get for a good jeep in 1947?

A. Approximately around that. I think there was some sort of a top price on them—I don't think

(Testimony of Robert Nelson Lantis.)

there was any time. I don't know whether it was.

Q. You say you never went down to Iroquois Point when these jeeps were picked up?

A. No, sir.

Q. And you say Abreu left the employ of Lantis Motors before you turned over the concern to this Russell and the other chap?

A. Yes, sir.

Q. He left your employ, in other words? And he later went back to work for Beretania Motors?

A. Yes.

Q. Did you work for Beretania Motors?

A. Never. [71]

Q. And you left there about May of 1947?

A. Yes.

Q. And you say that Abreu came to work for you in about the first of September '46?

A. That's right.

Q. Now, just to clear up any confusion in the record, I think you also said on direct examination that Abreu had worked for you for 26 months?

A. No, I didn't.

Mr. Ridley: Six months.

Mr. Hoddick: My error.

Q. You were engaged in the U-Drive business in Lantis Motors, weren't you?

A. Yes.

Q. And what kind of cars did you use in that U-Drive business?

A. Mostly sedans and convertibles.

Q. You used some jeeps?

A. Never.

Q. Never used any jeeps?

A. No.

(Testimony of Robert Nelson Lantis.)

Q. How many jeeps did you have there at Lantis Motors?

A. They had one for parts and one other.

Q. Do you remember what you paid for them?

A. No, I don't. [72]

Q. You have no idea?

A. No, I don't remember.

Q. Do you remember where you purchased them?

A. They were purchased from veterans dealers.

Q. Are you familiar with the set of forms which veterans had to file with the surplus property office in order to obtain surplus property?

A. No, sir.

Q. Had you ever seen a purchase order before you saw the one that has been admitted in evidence in this case today?

A. No, sir.

Q. Have you ever seen any since?

A. No, I haven't, not of that type.

Q. Have you seen any purchase orders that were used by the surplus property office?

A. Yes, the purchase orders after—we were allowed as dealers to buy. They gave us purchase orders. Any dealer could buy the vehicle in the last year or so.

Q. And when you submitted the purchase orders to the surplus property office, what happened to it? That is, when you were ordering a particular type of surplus property.

A. Well, they sent us a bid form, and then, if we wanted to bid, we put in the bid we wanted and a



(Testimony of Robert Nelson Lantis.)

purchase order along with it if we got the bid. If you got the bid you didn't get anything. I mean, if it was too high you didn't [73] get anything.

Q. Now, Mr. Lantis, do I understand correctly that Mr. Abreu came and asked you for the \$325 at the time that he showed you this purchase order?

A. This purchase order, this white one here?

Q. This is the notice of sale. I am talking about U. S. Exhibit No. 2.

A. That is the one. That is the one he showed me.

Q. That's the time when he asked you for the \$325?

A. Yes.

Q. And where did you give him the money?

A. In the office there at Lantis Motors.

Q. You never went down to the surplus property office with him?

A. No, sir.

Q. This purchase order was completely filled in at that time, or at least all the writing that is on there now?

A. All the writing was there that I can remember.

Q. Mr. Lantis, have you ever been convicted of a felony?

A. Yes.

Q. Where?

A. Here in the Territory.

Q. Federal Court?

A. Yes.

Q. What was the felony? [74]

A. It had to do with a corporation, and I took the brunt myself.

Q. Theft of Government property?

(Testimony of Robert Nelson Lantis.)

A. No.

Q. Was that the charge?

A. No, it wasn't a theft of Government property.

Q. Receipt of stolen property?

A. Receipt of stolen property.

Mr. Hoddick: No further questions.

Mr. Ridley: That's all.

(Witness excused.)

Mr. Ridley: We rest.

Mr. Hoddick: May it please the Court, the defense witness has made certain statements which I think are within our ability to rebut. If we can have an adjournment until this afternoon, I think we can dig up the rebuttal witness that we will require.

The Court: Well, what time this afternoon?

Mr. Hoddick: Might I suggest two o'clock, your Honor? We can close the case today, I am sure. We had not anticipated this testimony on the part of the defense witness.

The Court: All right. The Court will recess until two o'clock.

(The Court recessed at 11:20 a.m.) [75]

### Afternoon Session

(The Court convened at 2:10 p.m.)

Mr. Hoddick: May it please the Court, there were two witnesses whom we desired to call for re-

buttal. I have ascertained during the period of recess that one witness is in school on the mainland, and I just had a phone call from the other witness about seven minutes ago, and he is on his way down. Now, that has to do with the signing of the purchase order by the witness Abreu in Lantis' presence. If the Court desires to recess the matter again for a sufficient period of time for that witness to get here——

The Court: He is coming down from where?

Mr. Hoddick: He was called from Manoa valley and he is on his way down.

The Court: Well, how is he coming?

Mr. Hoddick: He is driving, your Honor.

The Court: Riding?

Mr. Hoddick: Driving. As of five minutes ago he expected to get here in 20 minutes. I regret that it was necessary for us to ask for a further continuance, and I am not certain when he gets here whether his evidence is going to be material or helpful either to the defendant or the plaintiff. Perhaps your Honor would prefer that we go ahead with argument at this time?

The Court: Well, didn't you find out the nature, what [76] the nature of his evidence would be?

Mr. Hoddick: We expect that the nature of his evidence will be that at the time that the U. S. Exhibit No. 2, which is this veteran's purchase order and which the witness Abreu testified he signed when it was not filled in, a blank form, and which

the defendant testified the witness Abreu brought to him after it had been completely filled in, that the witness who is coming down will testify that he was present at the time that Abreu signed this and he may be able to testify as to what the condition of the purchase order was at that time. Of course, it is the Government's theory of that that after Abreu signed his name on this purchase order the defendant either had filled in or filled in the rest of it and submitted it to the surplus property office. It is material insofar as that goes.

Mr. Ridley: If your Honor please, if the witness' testimony is to anything like that, it is certainly practically testifying to an impossibility. Where did all these figures come from? This thing was executed a day before this so-called notice of sale was executed. And if it is the same witness that I think it is, well, I will admit that you don't know what he is going to testify to.

Mr. Hoddick: I regret that the matter is in such a state of irresolution.

The Court: Well, we will take a 20-minute recess.

Mr. Hoddick: Thank you, your Honor.

(A recess was taken at 2:15 p.m.)

### After Recess

Mr. Hoddick: Mr. Cambra, will you step up to the witness stand?

## ANTHONY W. CAMBRA

a witness on behalf of the Plaintiff, being duly sworn, testified as follows:

## Direct Examination

By Mr. Hoddick:

Q. Will you give your full name, please?

A. Anthony W. Cambra.

Q. How old are you, Mr. Cambra?

A. 28.

Q. Are you a veteran of World War II?

A. Yes, sir.

Q. Do you know Oliver Abreu?

A. Yes, sir.

Q. Are you related to him? A. Yes, sir.

Q. What is your relationship?

A. He is my uncle.

Q. He is your uncle? A. Yes, sir.

Q. Do you know the defendant in this case, Robert [78] Nelson Lantis? A. Yes, sir.

Q. And that is Mr. Lantis sitting here at the far end of the table? A. Yes, sir.

Q. Did you ever go down to Mr. Lantis' place of business in 1946? A. Yes.

Q. And where was that located?

A. Beretania Street, somewhere on Beretania in the back of the car barn, Rapid Transit.

Q. Do you remember the name of the business?

A. Lantis Motors.

Q. And what caused you to go down there? Why did you go down?



(Testimony of Anthony W. Cambra.)

A. Oh, now and then to see my uncle; to see him, Bob.

Q. Did you ever have any occasion to sign any forms in the defendant's office? A. Yes.

Q. Was your uncle there at the time?

A. Yes.

Q. Did he sign any forms at that time?

A. I think he did.

Q. What was the type of form that you signed?

A. I signed a big one and a small one. [79]

Q. Did it have anything to do with surplus property? A. Yes, sir.

Q. What type of a form was it? What was the form for?

A. For jeeps or trucks, I don't know. Some kind of surplus jeep.

Q. Is this the type of form which you signed when you were down there? Showing the witness U. S. Exhibit No. 2. A. Yes, that's it.

Q. That is the type of form?

A. That's the type of form.

Q. And did your uncle sign?

The Court: What are you showing him?

Mr. Hoddick: U. S. Exhibit No. 2, which is the veterans purchase order form, your Honor.

The Court: All right.

Q. Did your uncle sign the same type of form when you were there?

A. Yes. We had the same thing.

(Testimony of Anthony W. Cambra.)

Q. Now, was there any—was the form filled in at the time you signed it or was it in blank?

A. Mine was blank.

Mr. Ridley: If your Honor please, I will object to the question as calling for an answer that is incompetent, irrelevant and immaterial and having nothing to do with the issues in this case. This is the type of form he filled in. [80] There is obviously a form here, U. S. Exhibit "A," which is the only one in question, and that was obviously not signed by this witness.

Mr. Hoddick: U. S. Exhibit No. 2.

Mr. Ridley: U. S. Exhibit No. 2. It is not a proper foundation.

Mr. Hoddick: This is partially to refresh the witness' recollection as to this particular form. I will step from this question——

Mr. Ridley: That is not a proper way to refresh his recollection, to put words into his mouth and lead to the point that he is going to testify to something. If you ask him a question directly——

Mr. Hoddick: I will submit the matter.

The Court: Oh, well, I think that the question is a little bit afield.

Mr. Hoddick: I will withdraw the question.

Q. You were present at the time that your uncle filled in this form?

A. We two were there. We called in there into his office.

(Testimony of Anthony W. Cambra.)

Q. And you testified that this was the type of form that he filled in at that time?

A. That's right, same thing.

Q. Was there any other writing on the form at the time [S1] that he filled it in?

A. No, mine didn't have no form——

Mr. Ridley: Just a minute. I move to strike that answer as not having any bearing on the issues of this case.

Q. (By Mr. Hoddick): I am talking about the form that your uncle signed, Oliver Abreu. Was this business relative to jeeps and material up here filled in on his form or was it blank?

A. No, it wasn't filled.

Q. It was a blank form?

A. Not that I know of. It was a blank form.

Q. Did you ask Mr. Lantis what use he was going to make of these forms?

Mr. Ridley: Just a moment, if your Honor please. I will object to that as leading and suggestive and no proper foundation has been made for it, and that it is not tied up to this particular transaction. I don't understand what counsel is trying to show here. If this is a round-about way to infer something that might possibly have existed which doesn't exist, he is surely going around it that way, but certainly that is not the proper way to produce criminal evidence.

(Testimony of Anthony W. Cambra.)

The Court: Well, as I get it, the witness testified that he and Abreu signed that form at the same time at the same place. [82]

Mr. Ridley: That's right.

The Court: Well, frequently I don't know for sure whether it is at the request of the defendant or not. I am not sure about that.

Mr. Hoddick: I will ask the witness about that, your Honor.

Q. Mr. Cambra, were you asked by anybody to sign that type of form and was your uncle asked by anybody to sign that type of form?

Mr. Ridley: If your Honor please, I will object to the question as being double. The question is solely in reference to this form signed by the witness Abreu. I call your Honor's attention to also in this connection to this round-about way. Mr. Abreu never testified to the presence of any other witness in that office at the time he allegedly signed this. So how can we be sure that this is the same form? There is no foundation laid for this rebuttal at all.

Mr. Hoddick: Our witness testified that he only signed one of these forms one time. He was there at the time that his uncle signed such a form.

Q. Who asked your uncle to sign this form?

A. I think Lantis did. He called us in the office. It was in the afternoon some time.

Mr. Ridley: I move to strike that answer, if



(Testimony of Anthony W. Cambra.)

your Honor please, as being purely speculative and conjectural. He [83] thinks that Mr. Lantis did.

A. (Continuing) Lantis called us in there. I know we signed some papers in his office in the afternoon some time.

Mr. Ridley: That is entirely a different answer than he originally gave.

A. (Continuing) I know he called us in the office to sign for some jeeps that they were going to get.

Mr. Ridley: Just a moment, if your Honor please. I will object to the witness going on and rambling. I have had an objection in before your Honor.

The Court: Let's have your objection again.

Mr. Ridley: I object to it, if your Honor please, that any statement on the part of this witness as to what he thinks might have happened is pure speculation and conjecture, and he said he thought Mr. Lantis must have called him in.

The Court: No, he didn't say he thought Mr. Lantis; he said quite definitely Mr. Lantis.

Mr. Ridley: Called him in. But he said he thought Mr. Lantis requested him to sign this. And that was what the question was, if your Honor please, and that is speculative.

The Court: The way I got it, he said he thought he asked Abreu to sign it. He didn't testify as to whether he had been asked to sign it.

Mr. Ridley: Well, I am talking about Mr. Abreu,



(Testimony of Anthony W. Cambra.)

and [84] that is the question that is involved in this case, if your Honor please, and that is speculation and conjecture.

Mr. Hoddick: Well, let's rephrase the question, Counsel. Perhaps we can avoid these multifarious objections.

Q. You said that you and your uncle signed certain forms in Mr. Lantis' office?

A. We did.

Q. Where did those forms come from?

A. I don't know where he got it from.

Q. Did Mr. Lantis have the forms?

A. He had the forms there in the office.

Q. And Mr. Lantis gave the forms——

A. To us in that desk in that office that he had in that Lantis Motors. I know Abreu signed because they went down to get some jeeps.

Q. And did this form have any writing on it other than the printed writing on it prior to the time that your uncle signed it? A. No.

Mr. Hoddick: No further questions.

### Cross-Examination

By Mr. Ridley:

Q. Do you know what date this occurred?

A. Oh, long time ago this be—nineteen something, I don't know. [85]

Q. That's right. And, as a matter of fact, this whole transaction is sort of hazy in your recollection, isn't it? You don't remember all the details concerning it, do you?

(Testimony of Anthony W. Cambra.)

A. Well, as far as that, I remember he calling us for jeeps.

Q. That's right. You remember that?

A. Yes.

Q. The rest of it is sort of hazy in your recollection except as to what you did?

A. Not quite anything. I can remember far back.

Q. I understand that. But do you remember, do you have any definite recollection as to what the conversation was at that time?

A. Concerning jeeps.

Q. That's all? A. Surplus jeeps.

Q. And that's all you know?

A. That's all. And he made us sign that, that's all.

Q. And that's all you recall?

A. Signing papers.

Q. You don't know whether it was this particular document that was signed by your uncle, do you? A. That's the same thing I had.

Q. I say, you don't know whether this particular form was the one that was signed by your uncle at that time, do [86] you?

A. I remember that's the one.

Q. That's the particular one? You are definitely certain of that?

A. He signed something like that.

Q. Do you mean to state——

A. He says he signed. I'm looking at it now.

(Testimony of Anthony W. Cambra.)

Q. You say that that's the particular document that he signed?

A. I don't know if that's the one, but he signed one like that.

Q. One like that? He could have signed this particular document on another occasion, couldn't he?

A. I don't know.

Q. He could have signed it on another occasion?

A. Not when I was there. I don't know.

Q. Isn't it possible, Mr. Cambra, that your uncle may have signed another form like this on another occasion?

A. I don't know.

Q. You don't know? You can't definitely testify that it was this document that he signed on that particular occasion that you were present, can you?

A. He signed one like that.

Q. One like it, but you don't know whether it was this particular document, do you? [87]

A. Well, it was blank. I don't know.

Q. Do you know whether this is the same document that he signed, whether it was blank or not blank?

A. The one he signed was blank.

Q. Well, therefore, take a look at this particular document. I don't care whether it was blank or otherwise. Do you know whether that was the same one that he signed that time?

A. Well, whose writing is on the top there?

Q. That's aside from the point. Take a look at the document. Do you know whether that was the particular one that he signed in your presence?

(Testimony of Anthony W. Cambra.)

A. I don't know if the particular one, but he signed something like that.

Q. In other words, you don't know whether it was this document, referring to U. S. Exhibit No. 2?

A. I didn't notice that number there. It didn't have a number like that. I don't notice those things.

Q. How did you happen to come down here today? A. I was called down here.

Q. Who called you down?

A. My boss told me to come down.

Q. Who is your boss? A. Kumukoa.

Q. And you talked to your uncle, Mr. Abreu, about [88] this case here before you came on the stand here? A. No.

Q. Never talked to him before? A. No.

Q. Have you ever had any occasion to discuss it with him in the past? A. No.

Q. In other words, the last time you talked to Bob or had anything to do with this case or do with any buying——

A. Just now they called me. I was in the U-Drive. We are in the telephone there——

Q. O.K. Admitted. But the last time you knew anything about your uncle signing any form was 'way back in 1946? A. 1946 some time.

Q. And this is the first time anybody has ever discussed any similar matter with you, is that correct? A. That's right.

Mr. Ridley: That's all.



(Testimony of Anthony W. Cambra.)

Mr. Hoddick: No further questions.

The Court: That's all.

(Witness excused.)

The Court: Is that your case, then?

Mr. Hoddick: Your Honor, I would like to recall Mr. Abreu on the stand.

The Court: For what? [89]

Mr. Hoddick: For the purpose of placing in the record definite information that he only signed one veteran's purchase order form.

The Court: He testified so.

Mr. Hoddick: He did. The Government rests.

The Court: Well, do you gentlemen want to argue the case?

Mr. Hoddick: I will pass the opening argument, your Honor.

(Mr. Ridley presented the argument on behalf of Defendant.)

(Mr. Hoddick presented the argument on behalf of Plaintiff.)

The Court: It is the finding and judgment of the Court that the Defendant is guilty as charged on count 1 and count 2. When will the Defendant be ready for sentence?

Mr. Ridley: Well, if your Honor please, first may we have an exception to your Honor's ruling on the grounds that it is not according to the law and the evidence and the weight of the evidence.



And, if your Honor please, we can be ready for sentence in more or less the convenience of the Court.

The Court: Mr. Mattoon, how long will it take you to make an investigation and presentence report? [90]

Mr. Mattoon: By Friday, the 14th, your Honor.

The Court: All right. Ten o'clock in the morning, Friday, the 14th.

Mr. Hoddick: Your Honor, may I have leave of Court to withdraw the exhibits which were brought over here from the Territorial Department of Motor Vehicles, so that I can return them? That's U. S. Exhibits 4-A, B and C, and U. S. Exhibit No. 5. They will always be available.

The Court: You can.

Mr. Hoddick: If I have copies prepared.

The Court: Yes.

Mr. Hoddick: All right. I will have that done. I will have photostatic copies made, your Honor.

The Court: All right. Is there anything else before the Court?

The Clerk: No, your Honor.

The Court: The Court is adjourned until tomorrow morning at ten o'clock.

(The Court adjourned at 3:25 p.m.)

---

I, Albert Grain, Official Court Reporter, U. S. District Court, Honolulu, T. H., do hereby certify that the foregoing is a true and correct transcript

of proceedings in Criminal No. 10,210, U.S.A. vs. Robert Nelson Lantis, held in the above court on October 4, 1949.

/s/ ALBERT GRAIN.

Jan. 3, 1950.

[Endorsed]: Filed Jan. 6, 1950. [91]

---

In the United States District Court  
For the District of Hawaii

Criminal No. 10,210

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT NELSON LANTIS,

Defendant.

TRANSCRIPT OF PROCEEDINGS

In the above-entitled matter, held at Honolulu,  
T. H., December 7, 1949, at 10:00 a.m.

Before: Hon. Delbert E. Metzger, Judge.

Appearances:

HOWARD K. HODDICK,

Assistant United States Attorney,  
appearing for the Plaintiff.

DANIEL G. RIDLEY, ESQ.,

Honolulu, T. H.,  
appearing for the Defendant.

PROCEEDINGS

The Clerk: Criminal 10,210, United States of America vs. Robert Nelson Lantis, for hearing on a motion for a new trial.

Mr. Ridley: If your Honor please——

The Court: Let me see the file.

(Document handed to Court.)

Mr. Ridley: My co-counsel, Mr. Herbert Lee, just left for the Mainland and is on the Mainland for two weeks or so vacation; therefore, I was unable to have him present today.

My affidavit forms the basis of part of this motion for a new trial. It is just merely to the effect that I didn't know of the witness Cortese prior to the last trial; and I would like to state to the Court I made every effort to locate all witnesses and I was unable to locate these particular witnesses, and I didn't know they knew anything about the matter, with the information I was able to obtain.

With that understanding, I don't want to be dis-

qualified on proceeding with the cause at the present time, if Counsel will accept my statement in that regard.

Mr. Hoddick: I am not worried so much about Mr. Ridley's knowledge as to what these witnesses might be able to testify to as I am about his client's knowing. If these witnesses had something important to say, it is apparent that what they will testify to, at least as far as Mr. Russell, who is named in Mr. Lantis' affidavit, is knowledge which Mr. Lantis had, and if Mr. Lantis considered it important, he certainly should have had Mr. Russell in here. I don't say that Mr. Lantis had informed Mr. Ridley of that. I don't know what Mr. Ridley's knowledge was, but his client had the knowledge, and I think this is a rather late hour in which to bring in what he classifies as newly discovered evidence.

Also, I believe that the argument on this motion for a new trial should be limited to the subject of newly discovered evidence since the other grounds set forth in the motion were not brought to the attention of this Court within five days after the time that the defendant was adjudged guilty. Under the Federal Rules of Criminal Procedure, Rule 33, the only ground that you can argue after that five-day period is the ground of newly discovered evidence.

Mr. Ridley: The only point in that connection, if your Honor please, is that I happen to know all the history of the background of the whole situation involving all of the witnesses, involving the

company, and everything to that effect; and, as I understand the rule, counsel can not very well argue something that is going to involve himself as a witness. I am perfectly willing to proceed at the present time if counsel will waive that disqualification. I realize quite well, if your Honor please, that the primary question involved is as to whether Mr. Lantis had this information or whether it was [2\*] available to him, but I don't want to be placed in a position of not being able to take the stand on account of the fact that my co-counsel, who would have normally presented this motion, is not present. I don't wish to delay the matter and, if necessary, I can probably get other counsel within a short length of time and familiarize him with the case, but it takes a few hours.

Mr. Hoddick: Mr. Ridley, I have no objection to your taking the stand, but I don't see how that would assist you in this matter. The question is whether your client, Mr. Lantis, had knowledge and how he obtained the knowledge after the trial. You can put Mr. Lantis on the stand for that purpose.

Mr. Ridley: But the knowledge of myself acting here as attorney for Mr. Lantis would be Mr. Lantis' knowledge as I understand the law. In other words, if I made the investigation myself and was unable to elicit any information from a particular witness which I am now able to produce, it would seem to me that my knowledge prior to that time would be Mr. Lantis' knowledge, if your Honor please.

---

\* Page numbering appearing at top of page of original Reporter's Transcript.



Mr. Hoddick: Well, Mr. Lantis has set forth in his affidavit the finding that a Mr. Russell has a receipt. That is something which Mr. Lantis must have had direct knowledge of at the time that the receipt was executed.

Mr. Ridley: If you recall correctly, Mr. Hoddick—— [3]

Mr. Hoddick: One second. I think I would like to ask at this time for the exclusion of any witnesses who may be in the court room.

Mr. Ridley: No objection.

(Witnesses leave.)

The Court: Well, now, Counsel for the Government says he has no objection to your being a witness in the case if you deem it proper to be a witness.

Mr. Ridley: Well, that is the matter, if your Honor please, that I was raising at this time.

Mr. Hoddick: May it please the Court, in the interest of shortening this proceeding, could we have a ruling on what subject matter will be open to the defendant to argue at this time. In his motion for a new trial he alleges newly discovered evidence in paragraphs 1 and 2. Paragraph 3 runs to another question. And as to paragraphs 4 and 5, I do not think that the defendant should be permitted to argue the subject of paragraphs 4 and 5. I do not think that the defendant should be permitted to argue the subjects of paragraphs 3, 4 and 5 since these matters were not brought to the Court's atten-

tion within the five-day period as prescribed by Rule 33.

The Court: Well, why don't you move against him then?

Mr. Hoddick: Well, I would like to move at this time that there be no granting of this motion on the grounds set forth in paragraphs 3, 4 and 5 of the defendant's motion for a new trial on that ground.

Mr. Ridley: I am inclined, if your Honor please, to concede that under the strict construction of the rule that is correct.

The Court: What do you mean by "strict construction"?

Mr. Ridley: As I understand the Federal rule, if the motion is not filed before five days after the final judgment of the Court upon a particular or general grounds as alleged, paragraphs 3, 4 and 5, then it becomes too late and thereafter the only grounds is newly discovered evidence, which may be filed at any time up to within two years after the matter is done.

The Court: I think that is right. All right, we will entertain you on paragraphs 1 and 2.

Mr. Ridley: I would like to amend paragraph 1 in the motion for a new trial to include an additional witness, Marvin Boggs, whom I have just discovered.

The Court: Who? Marvin——

Mr. Ridley: Boggs (spelling) B-o-g-g-s, whom I just discovered and talked with the first time this morning, who I just discovered was willing to tes-

tify, or would testify, to knowledge of the facts involved in this case last night on communication from Mr. Lantis. [5]

The Court: I didn't get the last.

Mr. Ridley: I say, the first time I had information or could obtain any information that that particular witness had knowledge of the facts in this case was last night after a telephone call from Mr. Lantis, and the first time I was able to interview him was this morning at 9 o'clock. I might state that prior to that time I had talked to the witness and from my conversation with him before the trial of this case, he had indicated that he didn't care to discuss the matter or had no knowledge that would help.

The Court: You want to amend paragraph 1 to include Marvin Boggs?

Mr. Ridley: That is correct.

The Court: And what do you allege he would testify to?

Mr. Ridley: He will testify, if your Honor please, to the effect—from the story he gave me this morning—that he was present on or about the end of the year—the facts in the record show it must have been following November 18—at the time this particular jeep was brought onto the premises of Lantis Motors, Limited, located at 800 Beretania Street, that prior to that time, through discussions with both Mr. Lantis and Mr. Abreu, or at least Mr. Abreu, that Abreu had told him, or indicated to him, that he had borrowed the money from Mr.

Lantis, the \$325, to purchase the jeep; and there were [6] certain incidental facts leading up that that he will testify to, that Abreu wanted the station wagon to replace his old Ford vehicle, that following Mr. Abreu's bringing of this jeep to this shop, which was towed in because the motor was frozen, Mr. Abreu worked for a considerable length of time, up to at least a month thereafter, in putting the jeep in sufficient running order so that he could operate it; that he repaired the jeep on his own time at the shop of Lantis Motors, Limited, a Hawaiian corporation, located over here at 800 Beretania Street; that thereafter he used the jeep, after he got it repaired, to go to and from work, he having been working for Lantis Motors, Limited; that sometime during March or April of the year 1947 Mr. Abreu had to go to the hospital, or his wife was in the hospital, or something like that, but he did not work regularly at Lantis Motors, Limited; he was off for a considerable length of time; that around the latter part of April or the early part of May when Mr. Lantis more or less severed his connections with Lantis Motors, Limited, as far as management was concerned, when Mr. Cyles came into the picture, along with Mr. Russell, that this Mr. Abreu was not there at the time; that the jeep was lying around Lantis Motors, Limited, shop; that Mr. Cyles wanted the jeep moved, as well as Mr. Russell, so that he could get in there, and that Lantis or Mr. Boggs picked up the jeep and took it over to Maluhia U-Drive, Mr. Lantis' private



place of business on [7] Kalakaua Avenue; that the jeep lay around the premises for a considerable length of time under a palm tree, or something; that for a month or two thereafter Lantis attempted, through Mr. Boggs, to contact Mr. Abreu for the purpose of obtaining repayment of this loan of \$325; that finally sometime in the middle of the year—he doesn't remember the exact date—it appears in the record around July 1—sometime around the middle of the year either he or Mr. Lantis finally located Mr. Abreu, as a result of which Mr. Abreu came over to Maluhia U-Drive; and that following the discussion in which Mr. Abreu stated he had no money to repay the loan Mr. Abreu offered and Mr. Lantis accepted on July 1 to take a transfer of the jeep into Mr. Lantis' name in lieu of the indebtedness.

Mr. Hoddick: May it please the Court, as to the offer which Mr. Ridley has just made concerning testimony of Mr. Boggs, and also in connection with the affidavit of Mr. Cortese, which is filed with the motion for a new trial, I think that it is apparent that all of what Boggs would have to say is merely in the nature of testimony which would impeach, if offered, what Mr. Abreu testified to from the stand, and the same is true of the facts that Mr. Cortese has set forth in his affidavit. In addition to being in the nature of impeaching testimony, as far as Mr. Abreu is concerned, it would be cumulative testimony as far as Lantis is concerned, and there are innumerable decisions by the Federal



Courts in which it [8] has been held that neither impeaching nor cumulative evidence will be heard by the trial court in reviewing a motion for a new trial.

Mr. Ridley: In that connection, if your Honor please, I can't quite agree with Counsel for the Government that this is merely impeaching testimony. There is considerable substantive testimony, especially to the effect that Mr. Abreu worked on this automobile on his own time, if your Honor please, and testimony to the effect that it was common knowledge around the shop that it was Mr. Abreu's automobile. That is substantive testimony, if your Honor please, which was not available to us at the last trial—at least, I had no indication it could be available.

Mr. Hoddick: As far as working on his own time is concerned, I think the question of when he worked on the jeep is clearly immaterial. During the trial of this cause, as I remember—you obtained a transcript of it; I did not——

Mr. Ridley: I have not. The reporter has not furnished it to me as yet. I have ordered one.

Mr. Hoddick: As I recall, it did not specify whether Mr. Abreu worked on this jeep on his own time or on company time.

The Court: What was this man Boggs? What was his relationship with the shop there.

Mr. Ridley: Mr. Boggs—— [9]

The Court: What was the relationship with Lantis?

Mr. Ridley: Mr. Boggs, back at this period of time, as I understand it, was manager and general roust-about at Maluhia U-Drive on Kalakaua, which was Mr. Lantis' private business, and that in that capacity he had occasion constantly to go over to Lantis Motors, Limited, on 800 Beretania Street for the purpose of checking on the repairs of cars; and also because up until May, 1947 Mr. Lantis actively participated in the management of Lantis Motors, Limited, Mr. Boggs being his general assistant.

Mr. Hoddick: If the question of on whose time Mr. Abreu worked on this jeep should be considered material by the Court—and I don't think that it is—the testimony of Mr. Boggs is neither conclusive nor competent. It might show that Mr. Abreu did work on the jeep after hours, whether it was on his own time or Mr. Lantis' time, or anything else; but he certainly could not testify that Mr. Abreu did not work on the jeep on company time, unless it could be shown that Mr. Boggs was there all day.

Mr. Ridley: If your Honor please, that doesn't necessarily follow. Mr. Boggs had occasion to contact Mr. Abreu all along and he can certainly testify as to admissions by Mr. Abreu.

Mr. Hoddick: That is in the nature of impeaching testimony and is not competent to sustain a motion for a new [10] trial.

The Court: Go on to this second paragraph.

Mr. Ridley: Second ground, if your Honor please?

The Court: Yes.

Mr. Ridley: I don't have the copy of it with me. I understand the United States Attorney has a copy of the receipt that was involved in that original transaction that Mr. Lantis testified on the original trial he could not locate; and the receipt shows that this was a loan of \$325 repayable I forget how many days thereafter.

Now, the United States Government, at my request, after I found out about this copy, subpoenaed Mr. Russell who has had possession of this receipt all during this time, although he claims he recently discovered the same. The receipt should be here present in court under subpoena.

(Receipt produced.)

Mr. Ridley: Your Honor can take a look at the receipt. It is a receipt, if your Honor please, dated 11/18/46, No. 12699, Received from R. Lantis \$325 for loan to be repaid 12/1/46, Signed Oliver Abreu. That is the same date that that purchase order for the car was paid for to the Surplus Property office.

The Court: Well, was that receipt testified to by Lantis?

Mr. Ridley: That receipt, if your Honor please, was [11] testified to as follows by Mr. Lantis: He said in view of the length of time he thought he had such a receipt and was unable to locate any. And he said he was finally able to discover, due to outside circumstances, due to a longstanding friction between Mr. Lantis and Mr. Russell, where these books were located. All these books were Lantis Motor books and Russell only recently indi-

cated, apparently—I don't know what time the United States Government got this; I think it was after the last trial—that he discovered such a receipt and had it in his possession while looking over the books of Lantis Motors, Limited, which he had had in his possession for a year or two prior; and that was the receipt that we thought was in existence, but didn't know, at the last trial. Mr. Lantis said he thought he had a receipt, but he couldn't locate it in any of his files.

Mr. Hoddick: Mr. Ridley, did you check the transcript to see if Mr. Lantis did say that? I don't remember that.

Mr. Ridley: He said either a note or receipt, to my recollection.

Mr. Hoddick: I don't recall it, but I won't dispute your word if you did check the record.

Mr. Ridley: I did not check the record, if your Honor please, but that is my recollection of the testimony, and I am perfectly willing to stand corrected if I am wrong. [12]

Mr. Hoddick: It is the Government's position on that, your Honor, that regardless of whether receipt or note was mentioned at the trial of this case this entire affair was a scheme to enable Mr. Lantis to obtain a jeep by way of veterans' priority, whether for his personal use or use in his business, that the Government established such a scheme of conspiracy existed and that——

The Court: When was this case tried?



Mr. Ridley: October 4, if your Honor please, according to my recollection.

The Clerk: Fourth of October, your Honor.

The Court: Who was the reporter in that case?

The Reporter: Mr. Grain.

The Court: Is he here?

The Reporter: Yes.

The Court: Go and ask Mr. Grain to look up his notes of October 4 in the Lantis case and to bring them in, with particular reference to the testimony of Lantis, as well as Abreu.

Go ahead with the argument.

Mr. Hoddick: May it please the Court, first of all it is submitted that this was a conspiracy, that we proved the existence of that conspiracy, and that it would only be natural to expect—and as this Court well knows from other Surplus Property cases—that the person who is not the veteran [13] who is obtaining the property through a veteran would make some endeavor to disguise the true nature of the transaction and might very well give a receipt to make it appear as though the transaction were a loan; and that if the receipt is considered by the Court at this time it would not constitute such evidence as would have led to a verdict of acquittal on the original trial of this cause.

There have been cases which have held that before a motion for a new trial is granted on the grounds of newly discovered evidence that that newly discovered evidence must be of such caliber and weight that the Court in its discretion considers that a ver-

dict of acquittal would have been rendered if that newly discovered evidence had been introduced at the original trial.

It is also submitted that since this is a receipt executed by Mr. Lantis, it is a receipt which he had knowledge of; that Mr. Lantis knew where the books and papers of the company were and that he had every opportunity to supena those books and records in an endeavor to find that receipt if he wanted it. Therefore, he himself could not have considered it such important evidence in the case as to warrant going through that process in order to obtain it.

The Court: Mr. Grain, have you there the notes of the testimony of Robert Lantis on October 4 of this year in the case of the Government against Lantis? [14]

(Thereupon, Albert Grain, Official Reporter, United States District Court, District of Hawaii, read the direct and cross-examination of Oliver Abreu given October 4, 1949.)

The Court: I think that is enough.

The Reporter (Mr. Grain): Do you want Mr. Lantis' testimony?

The Court: No. The motion for a new trial is denied. It wouldn't have changed the finding and judgment of the Court had that receipt been put in the trial.

Mr. Ridley: May we at this time, if your Honor please, have an exception, and I would like to make a short offer of proof before your Honor's final ruling.

The Court: Well, I have ruled. You made your exception; it is in the record.

Mr. Ridley: For the purposes of the record, I don't think it is necessary, but we give notice of appeal at this time, if your Honor please.

\* \* \*

(Thereupon, at 11:25 a.m. December 7, 1949, the hearing in the above-entitled matter was closed.) [15]

---

I, Lucille Hallam, Official Court Reporter, United States District Court, for the District of Hawaii, do hereby certify that the foregoing is a true and correct transcript of my shorthand notes taken in the case of United States of America, Plaintiff, vs. Robert Nelson Lantis, Defendant, Criminal No. 10,-210, December 7, 1949.

/s/ LUCILLE HALLAM,

Official Court Reporter.

December 9, 1949.

[Endorsed]: No. 12460. United States Court of Appeals for the Ninth Circuit. Robert Nelson Lantis, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the District of Hawaii.

Filed January 23, 1950.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

---

In the United States Court of Appeals  
for the Ninth Circuit

No. 12460

ROBERT NELSON LANTIS,

Defendant-Appellant,

vs.

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

STATEMENT OF POINTS TO BE RELIED  
UPON BY APPELLANT ON APPEAL

Comes now Defendant-Appellant, Robert Nelson Lantis, and in conformance with Rule 19 (6) of the Rules of Practice of the United States Court of Appeals for the Ninth Circuit, and hereby states that it is intended that the Appellant shall rely upon the following points:



1. That the evidence is insufficient as a matter of law to sustain any count in the indictment;

2. That the Court erred in denying the motion for a new trial;

3. By reason of said errors and other manifest errors appearing in the record designated herein the judgment of conviction should be set aside.

Dated: Honolulu, T. H., this 17th day of January, 1950.

ROBERT NELSON LANTIS,  
Defendant-Appellant,

By /s/ DANIEL G. RIDLEY,  
/s/ J. EDWARD COLLINS,  
Attorneys for Defendant-  
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed U.S.D.C. Jan. 17, 1950.

[Endorsed]: Filed U.S.C.A. Jan. 23, 1950.

---

[Title of Court of Appeals and Cause.]

DESIGNATION OF RECORD TO BE  
PRINTED ON APPEAL

Now comes Robert Nelson Lantis, Defendant-Appellant in the above-entitled cause, and designates for inclusion in the printed record on appeal the following:

1. The indictment against Defendant.
2. Clerk's minutes of October 4, 1949 (the date of the trial).
3. Official reporter's transcript of evidence taken and proceedings had during the trial.
4. All Exhibits.
5. The judgment, commitment and sentence of the court.
6. Defendant's motion for a new trial and affidavits attached thereto.
7. Clerk's minutes of December 7, 1949 (the date of hearing on motion for a new trial).
8. Official reporter's transcript of hearing on motion for a new trial.
9. Oral order denying motion for a new trial entered on December 7, 1949 (included in clerk's minutes).
10. Notice of appeal (from the judgment of the court) filed December 15, 1949.
11. Notice of appeal (from the order denying Defendant's motion for a new trial) filed December 15, 1949.
12. Election (not to commence service of sentence of imprisonment) filed December 15, 1949.
13. Application for bail filed December 15, 1949.

14. Bail bond filed December 16, 1949.
15. Bond for costs filed January 17, 1950.
16. Defendant's second amended designation of record filed January 17, 1950.
17. Defendant's statement of points on appeal dated January 17, 1950.
18. This designation.

Dated: Honolulu, T. H., this 17th day of January, 1950.

ROBERT NELSON LANTIS,  
Defendant-Appellant,

By /s/ J. EDWARD COLLINS,  
/s/ DANIEL G. RIDLEY,  
Attorneys for Defendant-  
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed Jan. 23, 1950.

---

[Title of Court of Appeals and Cause.]

APPLICATION IN RE THE PRINTING  
OF ORIGINAL EXHIBITS

Now comes Robert Nelson Lantis, Defendant-Appellant in the above-entitled cause, and hereby respectfully makes application that the original exhibits in this cause be not printed and that said

exhibits be considered by the Court in their original form.

Dated: Honolulu, T. H., this 7th day of February, 1950.

ROBERT NELSON LANTIS,  
Defendant-Appellant,

By /s/ J. EDWARD COLLINS,  
His Attorney.

So Ordered:

/s/ WILLIAM DENMAN,  
Chief Judge,

/s/ HOMER BONE,

/s/ WM. E. ORR,  
U. S. Circuit Judge.